DR. AMBEDKAR
IN THE BOMBAY LEGISLATURE

PART III

Contents

38
ON PROBATION OF OFFENDERS BILL

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, one notices that there is not much enthusiasm for this Bill because one does not see the same competition that is observable when other Bills are before the House, and when I rise, although I am desirous of making reference to only one section, I also confess that I do not feel any very great enthusiasm for this Bill, and that, I submit, is very natural, because the Bill does not touch any problem which can be said to be either grave or urgent. It touches a very small problem. The Bill, I am told, follows very closely an English statute. I do not know whether the English people who are made subject to the statute which is taken as a model for this Bill have derived any benefit which may be called to be considerable, but I trust that the Honourable the Home Minister has examined the position carefully and has evidently come to the conclusion that the benefit arising from this Act in the country in which it is now prevailing, is certainly so considerable that we ought also to follow it by similar legislation in our province.

Sir, I have nothing to say with regard to the detailed provisions contained in the Bill, and I say at the outset that reading the Bill as it is, I think there are

principles embodied in this Bill to which I can lend my support. There is only one clause about which I feel some trouble and which I would like to place before the Honourable the Home Minister for his consideration, and that clause is clause 6. Clause 6 seems to me to embody a principle which may become in its operation somewhat oppressive, to use a very mild expression. The latter part of clause 6 says:

> "and if the offender is under the age of sixteen years, and it appears to the Court that the parent or guardian of the offender has conduced by his neglect or in any other way to the commission of the offence, the Court may order payment of such damages or compensation and costs by such parent or guardian."

It seems to me that this may rightly involve a great deal of oppression as against the parent or guardian. My learned friend the Honourable the Home Minister will agree that the words " neglect " and " negligence " are the vaguest of the vague words, and it is very difficult to give any positive definition of what is negligence and what is not negligence. If I may refer to what happened during the course of the Civil Disobedience Movement, I think it will give an analogy by which it might be possible for my honourable friend to realise the difficulty which I feel. I believe it is true— I will stand corrected if I am told that I am wrong—that during the Civil Disobedience Movement many civil servants who were in the service of the State and whose children had taken to the Civil Disobedience Movement, were brought under disciplinary action on the ground that they had not justified their duty *to* the State by seeing that the children did not follow the movement which was subversive of the Government of the day. I think I am right in saying that members who are now sitting opposite did take great objection to that principle, because, if I understand them correctly, their contention was that no parents could be responsible for the conduct of their children, especially if the conduct involved the holding of a certain opinion which may differ very legitimately from the opinion of their parents. My submission is that a child may develop criminal proclivities notwithstanding the fact that the parent has been as careful and as dutiful as ordinarily parents are; and unless the word " neglect " or " connivance " or " conducing " is properly defined, it seems to me that this Bill may lead to consequences which would be far greater than those which probably the Honourable the Home Member himself intends.

My honourable friend Mr. Bramble, who undoubtedly, as one sees from the speech that he made, has devoted special attention to the study of this problem, has pointed out that the English law contains certain anomalies, and that if the English law is to be taken as our model, we ought to take this occasion in order to see that the anomalies which are found in the English law

are not introduced in the legislation that we are passing. I have every reason to believe that the statement that he has made is based upon the deepest study, and if that is so and the prestige of the Government does not come in the way, I would join in the request made by the honourable member Mr. Bramble that this Bill could very well be referred to a select committee, where all the points that may be raised either in favour of certain principles or against may be threshed out, so that the Bill may become as perfect as we in this House can make it. With these remarks, I support the first reading of the Bill.

39
ON TOBACCO DUTY ACT AMENDMENT BILL

Dr. B. R. Ambedkar (Bombay City): Sir, I should like to submit in reply to what the Honourable Leader of the House has suggested, that unless you uphold the principle that there is such a thing as waiver or estoppel, the discussion that my honourable friend Mr. Jamnadas Mehta wants to raise will be quite relevant under the rules of the House. With regard to the point raised by the Honourable Leader of the House, what I should like to submit is this, that the House may easily take the view that they have granted sufficient funds and more shall not be granted. I submit that would be a complete answer to the point raised by the Leader of the House. Therefore, there can be no estoppel or waiver on the ground that the House has granted supplies by adopting the other taxes which were discussed previously under the head " Finance Bill ".

Then, Sir, the point I should like to raise is this. I think the issue is whether this is a Finance Bill or a Bill which merely regulates the administrative machinery for raising the tax. If this were a Bill merely providing for the machinery for raising the tax and laying down the mode and method of raising the tax, then I could quite understand the relevancy of the ruling to which you have referred. But it seems to me, looking to the statement of objects and reasons which is appended to the Bill, that this Bill is from beginning to end treated by the Government as a Finance Bill. The main object of the Bill is to raise additional revenue. The change in the machinery is merely secondary—to provide an instrument for raising the additional revenue. Additional revenue for the purpose of meeting the deficit caused by the prohibition policy of Government is the principal aim of this Bill. I shall just refer to one or two passages in the statement of objects and reasons:

"Tobacco is subject to substantial taxation in most countries. It is absolutely essential to develop this source of revenue in order to meet part of the loss caused by the new prohibition or anti-drink policy. In Bombay City duty on tobacco is levied under the Tobacco Duty (Town of Bombay) Act, 1857. Under

the said Act there is already a substantial maundage fee; but the licence fee is nominal, and there is a great demand for licences which are frequently sublet. The Bill provides for raising the licence fee in Bombay from Re. 1 to Rs. 25 or Rs. 50,....." That of course, leaves no doubt that this Bill is fundamentally a Finance Bill and not a Bill for the purpose of laying down a machinery for raising the tax. That is my submission. If it is a Finance Bill, then I submit, that the House has the right to discuss whether they should grant the supply to Government or not. With regard to the other point raised by the Honourable Leader of the House in regard to waiver, my submission is that it is perfectly open to the House to say: " Part of the supply we shall grant; the rest we shall not".

40

ON INDEPENDENCE OF JUDICIARY

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, I rise to support this motion. Speaking as I do on this motion at almost the fag end of the debate and realising the fact that some time must be left for the Honourable the Home Minister to make his reply, I propose to be very brief in the statements that I want to make to this House.

Sir, the first thing that I should like to state, speaking for myself, is that the act which is the foundation of this censure motion certainly does not come to me as any matter of surprise. I look upon this as the culmination of a series of activities, which undoubtedly amount to law-breaking activities which the Government is guilty of ever since it has taken office. It is only part of a series, one act in the drama that is proceeding : we do not know when it will come to an end. The first act to which I should like to make a reference is certainly the act undertaken by the present Government of restoring the lands that were confiscated from the Bardoli peasants. (Interruption.) I suppose I shall have a hearing, because my time is limited.

The Honourable the Speaker : Order, order. Will the honourable member resume his seat ?

I am afraid if the discussion is to be carried on these lines, it would be opening up an interminable field. The point at issue is not whether the Government does or does not deserve condemnation for any of their past acts, but whether the particular act which is the subject-matter of the present motion is or is not deserving of condemnation. The motion is taken as relating to a definite matter of urgent public importance, and the definiteness, which has been the reason for the motion being allowed, has to be followed in the course of the debate also. Otherwise, the very object of the discussion will be

frustrated. I would, therefore, request the honourable member to confine himself to the definite act that is before the House.

Dr. B. R. Ambedkar: May I make this submission. Sir, there is a distinction between a reference by way of analogy and argument and going into the merits. If I were going into the merits of the restoration of the Bardoli lands, I would certainly be subject to the objection you have taken. But I do say, subject to your ruling, that I am not out of order in saying that this act is the culmination of a series of activities of the Government and in referring to one of the past acts of Government without going into the pros and cons of it. I agree to finish by 5-30.

The Honourable the Speaker: It is not a matter of the honourable member agreeing to finish it by a certain time. What I feel is that, there being a definite matter and the honourable member having been given leave of the House for discussing a certain definite matter, even a reference to other matters may tend to introduce other subjects. I, therefore, feel that I would not be right in permitting references to other subjects even in general terms. I have no desire to curtail the liberty of any member; I do want all the points that can be urged in this matter to be brought out but I do not want to allow any references to other matters, which may be sins of commission or omission. It is not that I am anxious to finish earlier and therefore wish to exclude reference to those matters. The Honourable member is entitled to have his full say on the point before the House.

Dr. B. R. Ambedkar: In view of that, I am bound to confine my remarks to the matter before the House.

Now, Sir, with regard to the matter before the House, what I should like to state is this, that, first of all, we are not in possession of the facts of the case, except what we have learnt from the newspapers. We have no definite data, and I am informed that although an appeal was made to the Honourable the Home Minister, to let the House know exactly what the facts were, he has not done so. Therefore, I, along with other members of the House, am certainly suffering under a handicap. It may be that in the end, when the facts are disclosed, it will be found that this debate was either unnecessary or premature. But if the debate turns out to be futile and unnecessary, the blame for that must necessarily fall upon the shoulders of the Honourable the Home Minister, because it is he who has declined to take the House inter his confidence and to state exactly what has happened. If he had done so, probably the honourable mover of the motion might have taken it back, probably other members might have said that they did not want to take any part in the debate. But, as I said, if this debate turns out ultimately to be a futility, the fault will be his.

Relying upon the facts as we have come to know from newspaper reports,

what is the point that arises for consideration ? It is said that the High Court had rejected the application of these men. The question is, why did the Minister allow it ? The point it seems to me is a very narrow point, namely, whether there was any justification which the House could accept as reasonable for suspending the sentence passed upon the two convicts. The Honourable the Home Minister might say that the High Court does not possess the powers of suspension and therefore it is quite irrelevant to urge whether the High Court wisely or unwisely refused to suspend the sentence. That is not the question. The question is whether the authority, the prerogative, vested in the Government for suspending, commuting or reducing sentences on prisoners who have been lawfully convicted has been properly exercised. The question is whether the discretion has been properly exercised. Now, Sir, in order to find out whether the exercise on the part of the Honourable the Home Minister of this prerogative has been properly exercised, it is necessary to eliminate certain probabilities. First of all, on the facts as they appear from newspaper reports, it is clear that these people, who indulged in this act of gambling on a vast and a colossal scale, were certainly not poverty-stricken people who were driven to these nefarious acts of gambling for the purpose of earning their bread. That certainly is not the case. From the facts as reported, these people were rich Banias. They possessed enormous capital; they had several companies or head offices in different parts of the city, in different parts of India, and they were carrying on their trade on a colossal scale. There could be, therefore, no justification in this particular case that they were unfortunate people who, by reason of their poverty, by reason of their adverse circumstances, were compelled to resort to acts of gambling. That is not the excuse that one can find, because the facts are totally opposed to that kind of inference. Secondly, there has been nothing suggested, at any rate in the reports that have appeared and in the application that was made in the High Court, that there was any other ground for this suspension. There is nothing to show that these two convicts were ill or suffering from any disease; there is nothing to show that there was any domestic calamity befalling their families which needed their freedom. That also we do not know from the facts before us, and that inference, again, has to be eliminated. Thirdly, the possibility that might be suggested was that they wanted to make an appeal to a higher tribunal. As against that hypothesis, it is quite well known, and the Home Minister knows it far better than I do—he is a much greater lawyer than I can pretend to be—that the Privy Council has laid down in hundreds of cases that they shall not admit any appeal from a criminal court in India unless it is shown that in the course of the trial, not the ordinary provisions of the Criminal Procedure Code, but the principles of natural justice have been violated. They have, in their own judicious way,

absolutely limited the scope and the authority for entertaining criminal appeals. And there is not the ghost of a suggestion in this case that either the Chief Presidency Magistrate or the High Court, before whom the trial and the appeal respectively were conducted, was in any sense guilty of violating the provisions of the Criminal Procedure Code *or* the principles of natural justice. I do not see any other circumstance which *prima fade* could make me believe that there was a reasonable cause which could have induced the Home Minister to suspend the sentence passed upon these people.

Then, Sir, I submit that there has never been a precedent, at any rate to my knowledge, of ordinary convicts having their sentences suspended for any reason by any of the Home Members who have preceded the present Home Minister. And certainly no Government has ever accepted illness or a private difficulty as sufficient cause for the suspension of sentences which have been judicially passed by the highest tribunal in the province. It is, therefore, I submit, a most scandalous affair, unless some reasonable explanation is coming forth, that a Home Minister should have gone over the head of the High Court and suspended the sentence. He well knows— at any rate we know from facts that have appeared in the papers—that an application was made by the advocate who appeared on behalf of these accused in the High Court. The advocate made an application for the grant of special consideration for these people while they were in jail, namely, that they should be treated as B class prisoners. I am also told that an application was made by the advocate who appeared on behalf of the appellants that their sentences should be suspended for the time being Both these applications were rejected. The very same applications—at any rate, one of those applications has been granted by the Home Minister. Sir, there could be no surer way of bringing law and order into contempt than. the act of which the Home Minister is guilty. I have no hesitation in pronouncing that opinion. I would like to ask the Honourable the Home Minister whether an act of this kind which *prima facie,* on its very face, does not bear a satisfactory explanation which could carry conviction to the mind of the people, is not likely to create a suspicion about the integrity and honesty of the administration of this Province. Sir, I would also like to ask a further question in this connection and that question I want to put to the Honourable the Prime Minister. The question is this : Was this order passed with the knowledge of the Prime Minister ? Was this order passed with the knowledge of the Cabinet or was it passed only by the Honourable the Home Minister ? Sir, I ask these questions for a very great reason. We are entitled to suppose, although we have no positive evidence on this point that under the new Act the Congress Cabinet is working as a collective body with a collective responsibility; and, therefore, I am entitled to presume that this matter was placed before the whole of the Cabinet

and if not before the whole of the Cabinet, at any rate, before the Prime Minister who, in the eye of the people, is the person who is solely responsible for the administration of this Province. I am particularly bound to make this reference and ask these questions because I treat this as a very grave matter. Suspension of sentence passed upon a convicted person is certainly a violation of the law and I submit that so grave an act involving such serious consequences to the administration of justice, to the welfare of the people of this Province, could not have been carried out without the knowledge of the Prime Minister. I am presuming this and I would like to know whether my presumption is correct and I hope I will receive an answer to my questions. (Applause.).

Mr. W. S. Mukadam: May I know, Sir, whether any drink is allowed in the House? I bring to your notice one fact that when the Town Planning Act was being discussed, I raised a point of order when Mr. Mirams was speaking and Sir Ibrahim Rahirntulla gave a ruling that no drink was allowed in the House. Then Mr. Mirams asked whether water was allowed, and the President said that even water was not allowed.

The Honourable the Speaker: I think it is better to have the convention of having nothing in the House by way of a drink, by which I mean pure water and nothing else. (Laughter.).

Mr. W. S. Mukadam: Mr. Mirams asked the question whether water was allowed in the House or not, and the President said that even water was not allowed.

The Honourable the Speaker: The Honourable member (Mr. Mukadam) raised a point of order with reference to " drink " which is capable of many meanings and therefore I restrict myself to the meaning of the word " drink " in the sense of drinking water. I believe the honourable member (Mr. Mukadam) raised the point with reference to the honourable member Dr. Ambedkar who had just a sip, before his speech, to keep him up.

Dr. B. R. Ambedkar: Sir, may I explain ? I am suffering from indigestion. Under medical instructions, I do not take any food for two days— Saturday and Sunday, and on these I am not allowed to drink water even. My condition on Monday is, therefore, of great exhaustion, and, unless I had taken a sip of water, I could not have made a speech. If I have offended against the rules of etiquette of the House and against decency, I apologise to the House.

The Honourable the Speaker: Now that the honourable member Dr. Ambedkar has given an explanation, I do not think anything more remains to be done in this matter, except the removal of glass from the table. (Laughter).

ON CREATION OF A SEPARATE KARNATAK PROVINCE

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Sir, I am entirely in agreement with what has been stated by my honourable friend Sir Ali Mahomed Khan Dehlavi and I think the view that you have come to on this point, if I may say so with respect, is correct. I should like to draw your attention to Rule 22, sub-rule (2), which reads :—

" The Speaker may disallow any Resolution or part of a Resolution on the ground that it relates to a matter which is not primarily the concern of the Provincial Government, and if he does so, the resolution or part of the resolution shall not be placed on the list of business." I submit, therefore, that this resolution deals with a problem which is not primarily the concern of this provincial Government in so far as it recommends that certain areas which are now a part of the Madras Presidency shall be separated, which I submit is beyond the jurisdiction of a Provincial Government. But, Sir, coming to section 290, to which reference has been made by my honourable friend Mr. Jog, I should like to draw your attention to the fact that that section 290 of the present Government of India Act is analogous to section 52A of the Government of India Act of 1919. Comparing section 52A of the Government of India Act, 1919, with section 290, one finds a very radical and a very deliberate change made. Under the old Act, section 52A laid down that if any new Province was to be created, it was permissible for the local Legislature to pass a resolution to that effect and to communicate it to the Governor-General, because. Sir, as you will recall, under the old Act of 1919, the authority to create new Provinces was vested in the Governor-General, and before the Governor-General could take any initiative under section 52A, it was open to the Provincial Legislature to pass resolutions conveying their sentiments on this matter. Section 290, as I stated, involves a deliberate change. It takes away the power from the Governor-General of constituting new Provinces from the old. It gives the power to the Secretary of State, practically to His Majesty in Council. Secondly, it takes away the power of initiative from the local Legislature. The power of initiation, as I see under section 290, is given to the Secretary of State. After the Secretary of State decides to constitute new Provinces, then before tabling an Order in Council to that effect, he is required, an obligation is imposed upon him by section 290, to consult the Legislatures affected by the order. It is then only that it would be permissible for any Provincial Legislature to discuss a resolution of that sort, notwithstanding the fact that the resolution affected areas which were not included within the Province. If this resolution was referred by the Secretary of State to this House, I submit then and then only it would be permissible for this Legislature to consider whether Karnatak should be

separated and certain areas which are not part and parcel of this Province should be incorporated in it or not. Unless that step has taken place, unless the matter has been approached by the Secretary of State, I submit this Provincial Government, the Provincial Legislature cannot deal with a resolution which evidently deals with a problem which is beyond the scope and authority of this Legislature and beyond the scope and authority of this Provincial Government. I submit therefore that the view which you have taken is a perfectly proper view both under the rules and also under section 290 of the Government of India Act.

The Honourable the Speaker : I would like to have one point made clear. I dropped the suggestion so far as the inclusion of the words " Madras and Coorg" are concerned. The argument advanced by the honourable member Dr. Ambedkar seems to go further and says that any resolution dealing with the creation of any new Province or changing the boundaries of any Province cannot be taken up at all in any Provincial Legislature, because the Legislature has not got the power to take the initiative in that respect. That is what I understand the argument comes to.

Dr. B. R. Ambedkar: Yes, Sir.

The Honourable the Speaker: His point of order then really makes no difference between the inclusion of Madras and Coorg. If nothing can be discussed, then the inclusion of Madras or Coorg makes no difference. His point goes to the very root of it. There is one difficulty in that connection : the power of initiation is given under certain limitations or rather it is to be exercised under certain limitations. But a Legislature expresses its opinion with a view to move the Government which has got the power to initiate proceedings. Is there anything in section 290 which debars a Legislature from making a request for taking the initiative ? It is not that this Legislature by its resolution or its action is going to initiate proceedings in the sense of an actual separation. If the word " initiative " is used, in another sense, it will initiate by making a request. But is it debarred even from making a representation under the terms of section 290 ? On that point, I am afraid I am not inclined to agree with the learned Doctor.

Dr. B. R. Ambedkar: I take exactly the same view, that this House is debarred. The fact that explicitly or expressly the power to take the initiative has been given to the Secretary of State in itself would show that the initiation has been taken out from the Legislature, and I say, comparing section 52A of the old Act with section 290 of the present Act, the situation seems to be absolutely clear. This fact was considered at the time by the Simon Commission and by the Round Table Conference, and they came to the conclusion that the only Provinces which satisfied the conditions for separation were Orissa, Sind and North-West Frontier Province. They did not leave the initiative to the Provincial

Legislature.

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Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, I rise to oppose the resolution moved by my honourable friend Mr. Jog. The subject of this resolution is undoubtedly a matter of great moment. I wonder how many members of this House will be prepared to consider this resolution, without importing into the discussion any sentiment or feeling. I think I, as representing the Scheduled Classes, probably have an advantage over other members of the House. If I may say so, I do not say figuratively but as a matter of most genuine feeling, that we representing the Scheduled Castes take no pride either in being Maharashtrians or Gujaratis or Karnatakis. For reasons which I need not enter into on this particular occasion, there are very many reasons why we think that this is not our land. However, I am using the argument in order to show to the House that by circumstances, I am capable of taking a dispassionate view, at any rate I am making a very serious attempt to take a dispassionate view, of the situation that has been presented to us by this resolution. Sir, it would be necessary and desirable for members of this House to bear in mind one fact which I think is of supreme importance. This Presidency of Bombay was, before the Act came into operation, composed of four different units—Gujarat, Maharashtra, Karnatak and Sind. This joint family has not been of recent origin. Karnatak, Maharashtra and Gujarat have been together for the last 115 years. Sind was with us for nearly 90 years. Sind has been separated. It is a matter past which we need not dig up now. I mention this fact that we have been living together for the last 115 years only to emphasise the fact that those who want that this unity be sundered, that these three parts which are together be now separated, must consider this matter in a much more serious way and not on grounds which are purely sentimental.

The first thing I propose to consider is this. Our friend who has moved this resolution has given expression to the view that the proposition is only a part of the larger whole, the ideal being the unification of all Karnatak people, that this resolution is merely a step in that direction. Now, Sir, the question that I would like to ask on this aspect is this. Is it likely that this ideal, if my honourable friends will allow me to say this dream, could be realised, the ideal of all the Kanarese speaking people coming together ? I have no doubt that this is a dream which can never come true, and the reason for my saying so is this. In a book which has been circulated, at any rate I have been fortunate in securing a copy of it, and which is called " A case for the unification of Karnatak "—I take it that it is a publication of the association which is responsible for this move—I find a statement on page 22 from which it is quite clear that a portion of the

Kanarese-speaking people are included within the boundaries of Indian States. Having regard to this fact, the question I would like to ask my honourable friends who are supporting this motion is this : Is it possible to get out from the jurisdiction and sovereignty of the Indian States the Kanarese-speaking people so that they can become part of the autonomous Kanarese-speaking Province ? I agree and grant that it is possible for the authorities who are responsible for the administration of British India to persuade the Madras Presidency or other administrations which are subject to British law to part with such territories which consist of Kanarese-speaking people, so that all of them will be consolidated together under one common administration. But I fail to understand how it would be possible for any body to get Kanarese-speaking people who are now living in Indian States, as it is, to have their allegiance transferred from the States to any British Indian Province. The only conceivable situation in which I think that issue can be successfully thought out would be the transfer of some territory from British India to the Indian States in exchange for the territory occupied by the Kanarese-speaking people. Now, I wonder whether any body of people who are living under the constitution given by the Government of India Act would be prepared to go within the jurisdiction of the Indian States, so that the Indian States may agree to transfer the Kanarese-speaking people from their domain ? I see no prospect and, therefore, I ask those of the honourable members who are in charge of this resolution to consider if my submission is correct, namely, that it would be only possible for them to fully realise their ideal, namely, to have all the Kanarese-speaking people included in one common autonomous Government : Is it worth-while for them to separate a few Kanarese-speaking people occupying a few districts in British India and constitute it into an autonomous Province ? If I may say so what is the use of taking a step, if we know before hand that the step is not going to lead to the ultimate goal ?

Therefore, I will now turn to the second consideration. If it is not possible to realise the ideal of unifying all the Kanarese-speaking people by bringing them under one common autonomous rule, the question that arises in my judgement is this : Has there been any handicap, has there been any difficulty, in the matter of Kanarese-speaking people recouping or having all the advantages which justice can give them in this what I may call, the polyglot administration ? I personally do not see that the Kanarese-speaking people are suffering any handicap in the matter of administration in this polyglot province.

Now, Sir, I have examined this question from two different points of view. First of all, I take the question of the distribution of offices under the new Government. Have they suffered in that way ? Have they obtained less than what was due to them ? The second thing that I take by way of test is this :

Have they obtained less representation in this House than what they are entitled to ? Now, Sir, I take these figures, and, in taking these figures, I am leaving out of consideration composite territories, such as, for instance, the City of Bombay, which is really neither wholly Marathi-speaking nor wholly Gujarati, nor wholly Kanarese. I am leaving such areas aside; I am also leaving out of consideration the seats that are assigned to special interests, and I find these figures. So far as population is concerned, the Marathi-speaking population numbers 9,868,795—in Marathi-speaking, of course I include everybody, Hindus, Mussalmans and Scheduled Castes; I am only taking the linguistic basis—the Gujarati-speaking population number, 3,422,139; and the Kanarese-speaking people number 3,266,223. Now, the position regarding seats in this House is this. On a purely population basis, taking that the 81 seats which have gone to the Marathi-speaking people as the standard, as the norm, by which to judge, I find that the Gujarati-speaking people should have got 27 seats. The Kanarese-speaking population, according to the book that is circulated, is 12 per cent. of the total, and on that basis, they were entitled to 21 seats. How many seats have been obtained by them in fact ? The Gujarati-speaking people have obtained 31 seats, when, as a matter of fact, they were entitled only to 27 seats. The Kanarese-speaking people have received 28 seats, when, as a matter of fact, they were entitled only to 21.

Now, coming to the offices. Taking the two Houses together there are 16 places. Now, on the basis of the ideal number of seats which each section was entitled to on the basis of its actual population, the Marathi-speaking people were entitled to 19.6, the Gujarati-speaking people were entitled to 3.3, and the Kanarese-speaking people were entitled to 3.l. Taking the distribution of offices on the basis of the actual number of seats obtained, irrespective of the question whether that was the right quota or not, the Marathi-speaking people's quota was 9.3, the Gujarati-speaking people's quota was 3.6, and the quota of the Kanarese-speaking people was 3.l. As a matter of fact, what has been the distribution of offices ? Six have gone to the Marathi-speaking people; 6 have gone to the Gujarati-speaking people, and 4 have gone to the Kanarese-speaking people.

Sir, as I said, I take no pride in being a Maharashtrian, but the fact remains—and when I use it, I do want to caution the House that I am not citing it by way of complaint, that is not my object; I am citing it merely to point out a fact—the fact remains that the minority people, namely, the Gujarati-speaking and the Kanarese-speaking people, have not been done any injustice either in the matter of seats or in the matter of offices. Before this matter was discussed in this House, I told my honourable friend Mr. Jog quite plainly that if he proved to my knowledge and to my conviction that the Karnatak people suffered in any

way—either they did not receive adequate and just representation in this House or that they did not receive sufficient representation in the Cabinet—they could always depend upon my support. I am always prepared to do this. But, Sir, taking these figures—-I have devoted the greatest care to the study of this subject; these are figures quoted from official data—speaking for myself at any rate, I do not see that the Karnatak people have suffered in any way by their remaining within the presidency of Bombay.

Now, Sir, coming to the other argument, the question, which, I think is important, and which not only I on this side but those friends who are responsible for this resolution are bound to consider, is the financial question. Is it possible for this newly constituted Kanarese-speaking province to maintain financially the standard of expenditure which is accepted in modem times by every civilised Government ? That, I think, is a very important question. Friends on the other side who have spoken in support of the resolution have drawn the attention of the House to a complaint that in the past Karnatak has suffered enormously by negligence on the part of the Government of this province.

The Honourable the Speaker: I would only just invite the attention of the honourable member to the time-limit.

Dr. B. R. Ambedkar: If you, Sir, ask me ..

The Honourable the Speaker: I do not like to interrupt the honourable member in the middle of an argument, but I would only remind him of the time limit for speeches, so that he might put forward his arguments in a nutshell.

Dr. B. R. Ambedkar: With regard to this question of finance, what I should like to say is this. In the book which has been circulated, we have been given certain figures. In Appendix B we are told that the total expenditure of the new Kanarese-speaking province would be about 2 crores, and the total revenue would be 2,57 lakhs. Now, I do not know how far the figures given in this appendix include what are called the overhead expenses of carrying on the administration of a province. What I find here are merely sums under certain heads of revenue and expenditure. I do not find anywhere here the expenditure that would be necessary to be incurred on paying a salary to a Governor; to his private staff; to the Secretaries; to the Ministers, to a Director of Public Instruction, who would be necessary; to an Inspector-General of Police ; to a health officer—all those superior officers who are necessary for keeping the administration on the run.

Mr. V. N. Jog: You will find these figures in Appendix B in the other book.

Dr. B. R. Ambedkar : May be. But, Sir, assuming now for a moment that this is going to be the budget, and as framed here there is to be a surplus of some 5 or odd lakhs, the question that I would like to ask is this : Is this revenue going to be sufficient for providing all that a modem administration must provide ? If

my honourable friend were to acquaint himself as to what the revenue of the Bombay Municipality is, he will find that the revenue of the new Province will not be even half the revenue of the Bombay Municipality. The revenue of the Bombay Municipality is Rs. 4 crores, and even with the 4 crores the Bombay Municipality is not able to do all that a modern Government should. I really ask—and I am very serious in saying this—whether this is no consideration which ought to prevail. My learned friend has quoted in the course of this debate a speech delivered by the Prime Minister of Orissa where he has stated that he was very glad that all the limbs have been brought together. I wonder what my honourable friend would say if I stated to him that it is not quite so important to bring limbs together as to provide food for them. This is a question which has to be considered. Sir, I do say and I say that with, all the emphasis, it is a most heart-rendering thing in this country to see these people cut up into small bodies with revenue no more than that of an ordinary local board. The separation of the Province might satisfy the ambitions of a few people who want to figure as the heads of the Province but what about the rest of the population who need to be fed, who need to be clothed, who need to be housed ? None of us can tolerate this kind of thing. I do say that with all emphasis. Sir, after all, what are these districts ? Two of these districts are famine-stricken. The whole of Bijapur is a famine-stricken district. The whole of Bellary also I am told is famine-stricken. What revenue does he expect to get from the famine-stricken area ? Merely by separating from the Bombay Presidency is that going to be a milch cow ?

Then there is another question to which I advert and it is this : I being a member of a minority, I am bound to consider these things from the standpoint of the minority. I am very glad that several members who spoke in favour of the resolution did give us an assurance that the interests of the Muhammadans and the interests of the Harijans will be looked after. But I do want to say this, that along with dismemberment of these Provincial areas there is going to be a dismemberment of the minorities. I cannot forget the fact that in the Karnatak we have only two seats. I am sure that those members of the Scheduled Classes who come from the Karnatak must be feeling that their strength lies in the fact that there are 13 members from other parts of the Presidency to look after them. What is to happen to them ? I am sure, for instance, the Muhammadan community has got about 8 seats from the Karnatak.

Sir Ali Mahomed Khan Dehlavi: Only four.

Dr. B. R. Ambedkar: Very well. I won't argue as I am rather pressed for time. But we cannot allow this kind of dismemberment. It is very good for the members of the majority community to say that they will be generous and they will be kind. We cannot depend upon their generosity and upon their kindness.

We want rights and rights cannot be given in a generous, way. To a community which after all on a purely population basis forms only a microscopic minority, even supposing they were prepared to give weightage, what weightage could they give to a population which is about a few lakhs ? This is one of the points on which I oppose this resolution. This dismemberment I am not prepared to accept Our strength lies in a polyglot administration. I do not want to say, but I have my fears that if Karnatak is created as a separate Province, it would be a Province of all the Lingayats against everybody else. I am not mincing matters, but if, for instance, there was separation there would be a combination of the Marathas against the Kanarese we don't want this kind of thing—and there cannot be a common front which we at present enjoy.

Then there is one other thing I would like to draw the attention of the House to—and with this I want to close—and that is I know there are people probably who would not agree with me but that is my conviction that the British, whatever they may have done in the course of history, whatever they may have failed to do—and there are many things which they have failed to do, which their self-interest probably did not permit them to do—have done two things which I am generous enough to admit as being two monuments of their rule in this country which will survive even when they go away. The one thing that they have done for us is a common code of law. You can travel from Kashmir down to South India and know that murder is the same thing whether you commit it in Kashmir, Punjab and the North-West Frontier Province, or whether you commit it in Rajah-mundry in Madras. You know what Transfer of Property means ; you know what evidence means wherever you go. Sir, I say such a thing we did not have. The other thing that the British have done is that they have given us a common Central Government. Such a thing we did not have before. The importance of this fact of having a common Central Government is not probably realised by all. But I think it is a very crucial fact If today we are on the way of building a common nation, a spirit of nationality, a feeling that we are all one, it is due to the fact that we have a common Government ; it is due to the fact that we realise that we are citizens of a common Government.

Sir, I would plead with the members of this House that they should do nothing whereby they would impair these two advantages which we have secured. Personally myself I say openly that I do not believe that there is any place in this country for any particular culture, whether it is Hindu culture, or a Muhammadan culture, or a Kanarese culture or a Gujarati culture. There are things we cannot deny, but they are not to be cultivated as advantages, they are to be treated as disadvantages as something which divides our loyalty and takes away from us our common goal. That common goal is the building up of a feeling that we are all Indians. I do not like what some people say, that we are

Indians first and Hindus afterwards or Muslims afterwards. I am not satisfied with that, I frankly say that I am not satisfied with that. I do not want that our loyalty as Indians should be in the slightest way affected by any competitive loyalty whether that loyalty arises out of our religion, out of our culture or out of our language. I want all people to be Indian first, Indian last and nothing else but Indians and therefore, I say, that this is a resolution which directly runs counter to this ideal. Sir, this is an ideal which we ought to cherish very zealously. I can quite understand that in a country like America, in a country like Germany, in a country like Europe, where the feeling of oneness is solidified, where there is no need to make anybody feel that! he is not a German to tolerate anything that is of a separatist character, but where the feeling that we are Indians is still in its embryo, is only beginning to ripen, to allow other loyalties, feeling of culture, feelings of nationality to grow simultaneously—I say deliberately—is the greatest crime that we can commit and I, for myself, will not be a party to it and I strongly, very strongly, oppose this resolution. (Applause.)

42

ON THE ASSEMBLY PROCEDURE

Dr. B. R. Ambedkar (Bombay City): Sir, with regard to this amendment I would like to draw your attention, first of all, to section 73, sub-clause (2), in the Government of India Act and my first submission is that this rule, in view of section 73 sub-clause (2) would be *ultra vires* of this House. Section 73 says thus:

"(1) Subject to the special provisions of this Part of this Act with respect to finance Bills, a Bill may originate in either Chamber of the Legislature of a Province which has a Legislative Council.

(2) A Bill pending in the Legislature of a Province shall not lapse by reason of the prorogation of the Chamber or Chambers thereof." I submit, therefore, in view of the provision contained in sub-clause (2) of section 73, it is not competent for this House to make a rule that a Bill shall lapse after two Sessions or even after the lapse of one year, as has been suggested by the amendment suggested by my honourable friend Mr. Gupte. That is my first submission with regard to this rule.

My second submission with regard to this rule is that this rule is inconsistent with rule 19 already passed by this House. Rule 19 says :—

" On the prorogation of a Session, all pending notices shall lapse except those in respect of questions, statutory motions, motions for amendment of Rules, motions the consideration of which has been adjourned to the next Session, under Rule 34, and Bills which have been introduced." Therefore,

motions with regard to Bills have been saved by rule 19**,** Rule 19 does not apply and my submission is that in view of the fact that the House has already passed rule 19, it cannot now proceed to adopt *either* rule 103 or the amendment that has been suggested.

My third submission is that assuming that this House has the authority to pass this rule and the amendment proposed, notwithstanding the fact that there is a clear provision of sub-clause (2) of section 73 of the Government of India Act and notwithstanding the fact that this House has already passed rule 19, it seems to me that this rule is really unnecessary. This rule says that " if no motion is made "; I find no definition of the word " motion " anywhere here. What I would like to submit is that no person would be in a position to make another motion unless the Bill is called on by the Secretary. That means that the Bill must be on the agenda. Secondly, it must be on the order paper; and thirdly, it must be called on by the Secretary. My submission is that no member who is in charge of a Bill should be penalised by this motion as he would be unless the Bill has been called cm by the Secretary; otherwise my submission is that there would be no default.

The Honourable the Speaker: That would be more or less an argument upon the merits of the rule.

Dr. B. R. Ambedkar : That is what I said. This was the third consideration. The first two were ..

The Honourable the Speaker: I think I may first dispose of the first two and then the honourable member may address his argument with regard to the difficulties as an argument on merits.

Two points have been raised, the first of which is that it is not competent for this House to frame a rule of this type in view of the provisions of section 73 of the Government of India Act. I had considered this aspect because this objection was suggested by the Honourable the Prime Minister when rule 103 was taken up for consideration last time. Sub-clause (2) of section 73 provides that a Bill pending in the Legislature shall not lapse by reason of the prorogation of the Chamber or Chambers. It is undoubtedly provided that it shall not lapse by reason of prorogation, but it does not mean, therefore, that a Bill can never lapse for reasons other than prorogation. What the rule purports to provide is that after a certain period, irrespective of prorogation or otherwise, a Bill shall lapse. There may have been possibly some room for doubt if the phraseology had been " two complete Sessions ". But when a specific period is sought to be provided, namely, a period of one year, as under this rule, as is now proposed, a Bill may lapse even while the Session is going on. So prorogation of a Session is not the reason for the lapsing of a Bill under the rule as proposed.

I am not dealing with the merits. I am only dealing with the constitutional aspect. The rule as proposed requires that although a Bill may be shown on the agenda and the House may be in Session, still the moment the period of one year is completed, it will automatically lapse without the Session being prorogued. Therefore, to my mind, sub-clause (2) of section 73 of the Government of India Act, is not a bar to the making of a rule as proposed by the amendment. Then the second objection is raised as regards—

Dr. B. R. Ambedkar: May I draw your attention to one fact, Sir ? My submission is, if the word " only " was there, then the construction you propose to put upon it would be proper.

Dr. B. R. Ambedkar: Sir, with regard to the amendment proposed, what I would like to submit is this. I have not heard any particular reason as to why there is a necessity of making this rule 103. What harm would there be if a Bill did remain on the agenda without it having been discussed ? If it could be shown that some harm or some inconvenience would be caused by the Bill remaining on the books of the House without it being discussed, then I can quite understand that some necessity was there for a provision such as the one that is contained in rule 103, but I have not heard anything as to what harm and inconvenience would be caused. And my second submission is that this rule as it is framed, and also the amendment, takes away the right of a member to continue the Bill although there is no default on his behalf. The wording is "if no motion is made ". That is what the wording is. But my submission is that a member may not be in a position to make a motion because the Bill has not been reached, because the Bill has not been on the agenda or because it has not been called out or for various other reasons, and I think it would be a great hardship if a member was deprived of moving a particular piece of legislation simply because by reason of other exigencies and other reasons he has not been able to make a motion with regard to the Bill. And, therefore, I think that unless some such further amendment is added such as " even though called on by the Secretary ", I think this rule would involve a great deal of hardship and I, therefore, oppose the amendment in the terms in which it has been moved.

The Honourable Mr. B. G. Kher: Sir, the situation is rather complicated because the honourable member was not here either when the rule was moved or when the amendments, including the one which he now wishes should be adopted, were fully discussed in a committee. Before, therefore, I apply myself to reply to his objections, I should like to know what those who have discussed this rule with me have to say because only last night the amendment was agreed upon by all. The honourable member Mr. Ali Bahadur Khan was there and he had put before the House an identical amendment, namely, add the words "though called upon to do so ". That is the honourable member Ali

Bahadur Khan's amendment and we all discussed the merits of the several proposals and came to the conclusion that ultimately this was the best solution. The constitutional objection which the honourable member pointed out was also present to our minds. Our misfortune is that the honourable member comes to the House only occasionally and then not knowing of the situation he is not in a position to take up the thread of the events that have happened before. I do not, therefore, propose to address myself to the merits of what he has suggested by way of adding to the amendment that has been moved. I would only give him the principle which has made it necessary to include this rule in the present rules and also point out that, in the old rules as they stand, we had a similar provision. It says: "If the member in charge makes no motion with regard to the same during two complete sessions, the Bill shall lapse, unless the Assembly on a motion by that member in the next session makes a special order for the continuance of the Bill."

Dr. B. R. Ambedkar: Does the Honourable the Prime Minister remember that that was consistent at the time, because there was no such provision as I have pointed out in the old Government of India Act ?

43
ON THE INDUSTRIAL DISPUTES BILL

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, I rise to oppose the first reading of this Bill. In rising to speak I am very much conscious of the handicaps under which I am labouring. I regret I have not been here to listen to the speeches that have been made by my predecessors who have spoken on the Bill. It is a misfortune which unfortunately I have not been able to escape. My work elsewhere has not permitted me to be here and to benefit myself by listening to points made by the previous speakers. I am also labouring under the handicap that so many speakers have preceded me and the debate has gone on for such a long time that I am wondering whether there is anything left for me to say at this fag end. But I take courage, if I may say so, that in a Bill of such a character, so vast, so extensive—it has 84 clauses—there might be much on which even a member rising to speak at the fag end may find something to say. My honourable friend Mr. Jamnadas Mehta, I think, very correctly described that this Bill was of such a vast character that even if Sheshashayi were to undertake to write about, it and even if the ocean was available as ink and the earth as paper to write upon, he would probably not find it sufficient to cover the whole Bill. Knowing these limitations I propose to be very concise.

In order that this Bill may be understood, I think it is necessary to read its

provisions in the light of the previous legislation. I believe and I think it will be readily agreed that the importance of the clauses of this Bill will not be apparent unless we compare and contrast its provisions with the provisions of the previous legislation. The last clause of the Bill makes it amply clear that this Bill is intended to replace the Bombay Trade Disputes Conciliation Act of 1934, and the question therefore that primarily arises for consideration is whether any case has been made out by the Prime Minister, who is in charge of this measure, for the change which he is now introducing by this Bill. The Act of 1934 was intended to provide a machinery for conciliation. The principle of the Act of 1934 was voluntary conciliation. Now this Bill introduces a change, namely, that the conciliation shall be compulsory, and the question, I submit, that arises for the consideration of the House is whether any case has been made out for altering the voluntary provision of the Act of 1934 and giving it a compulsory character.

Now, taking the year 1934 and the conditions as they were in that year as the standard by which to measure the necessity for introducing compulsion, I desire to refer to certain facts which are relevant and important. The first fact that I would like to draw the attention of the House to is this, that the original Bill introduced by the Honourable Sir Robert Bell in 1934, which subsequently became the Act, contained provisions for compulsory conciliation. But at the time of the introduction of the Bill, at its very initial stage, the mover of that Bill was impressed by the fact that the circumstances existing in the year 1934 did not require compulsion in the matter of conciliation, and consequently, he of his own accord, at the very outset, at the first reading of the Bill, in his opening speech made a proposal that he was going to bring forward an amendment in order to substitute the word "may" for the word " shall ". That, I submit, is proof of the fact that in 1934 the Honourable Sir Robert Bell did not feel any necessity for introducing compulsion in the matter of conciliation. There was in the House at the time when that Bill was introduced my honourable friend Mr. Saklatvala, who represented the Bombay Millowners. He too in the year 1934 did not demand compulsion in the matter of conciliation. On the other hand, in the speech which he delivered at the first reading of the Bill, he was lukewarm in his support of the Bill, for he went to the length of saying that the Bill normally was unnecessary. That was the viewpoint that he had taken, and with regard to conciliation, be did not certainly press or demand any compulsion in the matter at all. What was happened between the year 1934 and the year 1938 which compels this House to alter the provisions of that Act, changing voluntary conciliation into compulsory conciliation ?

Now, in order to make out a case for compulsion, the Prime Minister started by giving us certain figures of strikes that have taken place in this country, in

order to make out that the strikes that have taken place in this country, were so frequent and of such a grave character that the necessity had now arisen for changing the voluntary provision into a compulsory one. Now I have examined the figures of the strikes, the number of workpeople involved and the number of working days lost. I have no hesitation in saying that I stand unconvinced by what the Honourable the Prime Minister seemed to say as a result of the figures relating to strikes. Turning our attention to the strikes that have taken place in the City of Bombay, I have here the March number of the *Labour Gazette* published by the Labour Office. On page 541 this number gives the figures of the strikes that have taken place in the Province of Bombay. From 1921 to 1937, it gives in column one the number of trade disputes. Secondly, it gives the number of workpeople involved; and, thirdly it gives the number of working days lost. Running one's eyes over these figures, I am sure any one would be able to see for himself that the industrial disputes far from increasing are diminishing year after year. For instance, in the year 1921, the industrial disputes in Bombay were 103; in 1922, there were 143; in 1923, there were 109; and between 1924 and 1927, they had fallen to 50, a drop of 50 per cent. Then, you get 1928 and the figure rises to 144. From 1929 to practically 1937, it varies between 88 and 53. I admit that the number of strikes that have taken place is no criterion for judging the amount of disturbance and dislocation that might have taken place in the industry. I find from the figures which are given in this table that there are cases in which although the number of strikes is small, the number of people involved is comparatively great and the number of hours lost are also comparatively great. But then taking the number of working days lost as the criterion, which is the only criterion, I find that the worst year was the year 1928 which resulted in 24 million working days being lost. The second worse year was 1925 when II million working days were lost; and the third one was 1929 when 8 million working days were lost. But once you proceed further, beyond the year 1929, it will be found that the number of work-people involved and the number of working days lost and the number of strikes that have taken place after 1934, there is certainly nothing in the situation, so far as I am able to see, which can be said to create a situation which would cause anxiety to any Member of Government. The only bad year seems to be 1937 when 897 working days were lost. That is nothing as compared to the previous year. I am told that this happened because there was a general strike in the City of Ahmedabad which lasted for 15 days. My first submission, therefore, is this. No case has been made out by Government and by the Honourable the Prime Minister which would induce, at any rate, this part of the House, at any rate induce me to consent to so radical a change in the provisions of the Act of 1934. So much for the necessity of introducing compulsory conciliation.

Turning to the other provisions of the Bill, the provision to which I wish to advert are the provisions relating to strikes which undoubtedly are the most important, which this part of the House, at any rate the party I represent, stoutly oppose. Now, the Bill makes strikes under certain circumstances illegal. The provisions declaring strikes illegal are contained in clause 62 of the Bill which is the most important clause in it. It says: "62. (1) A strike shall be illegal if it is commenced or continued—

(a) in cases where it relates to any industrial matter mentioned in Schedule I, before the standing orders relating to such matter and submitted to the Commissioner of Labour under section 26 are settled by him or by the Industrial Court, as the case may be, or before the expiry of one year from the date on which such standing orders come into operation under section 26;

(b) without giving notice in accordance with the provisions of section 28;

(c) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(d) in cases where notice of the change is given in accordance with the provisions of section 28 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 34 is received by the Registrar;

(c) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the completion of such proceedings;

(f) in cases where a submission relating to such dispute or such kinds of dispute is registered under section 43, until such submission is lawfully revoked; or

{g) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the completion of such proceedings."

Then, in order to make this clause effective, the Bill prescribes certain penalties for indulging in illegal strikes. These clauses are 66 and 67. Clause 66 says :

"Any employee who has gone on strike or who joins a strike which has been held by the Industrial Court to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both." Section 67 says:

" If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which has been held to be illegal by the

Industrial Court, whether such strike or lock-out has commenced or not, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months, or with fine or with both.

Explanation.—For the purposes of this section, a person who contributes, collects or solicits funds for the purpose of any strike or lock-out shall be deemed to act in furtherance of such strike or lock-out." Now, Sir, it has been said that these clauses are justifiable, because there is no such thing as a right to strike, and the Bill, therefore, in penalising what the labourers call the right to strike is certainly not contravening any rules of ethics or any rules of jurisprudence. Sir, my first concern in this speech will be to refute that argument and repudiate that position. Now in order that I may make my position clear, I will begin from some very elementary propositions. First of all, let me make clear what we understand by the word " strike ". What does it mean ? It is better, I think, to understand the meaning of the term " strike ". In plain popular language, a strike is nothing more than a breach of contract of service. When a worker strikes, all that it means is that he commits a breach of contract of service: there is nothing more in it, and nothing less in it. And the next question that I propose to raise is this: how is this breach of contract of service dealt with by the law as it stands today on the Indian Statute Book ? Does the Indian law recognise this right to strike or not ? And, if it does, in what way; and, if it punishes, in what way does it punish it ? Sir, here again, I will begin with an elementary proposition, and that elementary proposition is this : that an act or an omission may be a civil wrong, or it may be a crime. And the first question that I propose to raise—1 really wish to deal with this matter exhaustively, because I do not want to leave any doubt at all as regards my position in this matter—the first question I propose to raise is: is breach of contract of service a civil wrong ? The answer that the law gives is: Yes, it is a civil wrong. What are the remedies for an aggrieved person who has suffered this civil wrong ? That would be the next question to follow on. There again the answer is that the present law provides two remedies for an aggrieved person whose contract has been broken by a workman, and those are damages and specific relief. Now, although the law does provide these two remedies, namely, damages and specific performance wherever there is a civil wrong, there is one provision which applies particularly to contracts of service. Whenever a man breaks a contract of service all that the aggrieved party is entitled to is damages; he can never seek specific relief, and the court can never give relief whereby it can compel a man to perform the contract of service which he has entered upon. All that the aggrieved party would be entitled to is damages. Sir, that is the position as far as breach of contract of service *is* concerned as a civil wrong. For this civil wrong the employer can get nothing more than damages.

Looking at this breach of contract of service as a crime, the question is: Is it a crime ? What has been the provision of the Indian law so far as breach of contract of service is concerned ? Sir, it is necessary, in the interest of clarification, to give to the House a little bit of history as to how this matter has been treated by our Indian law. The Indian law which first dealt with breach of contract of service was Act XIII of 1859; it was called the Workmen's Breach of Contract Act. This was passed in 1859, soon after the Mutiny or during the course of the Mutiny. I shall presently give to the House the reasons why this legislation was passed. Then, there are provisions in the Indian Penal Code which also deal with this matter, namely, breach of contract of service as a crime, and those sections are 490, 491 and 492. With regard to Act XIII of 1859, that Act was of a limited application. It applied to artificers and artisans; it applied to cases where artificers and artisans had taken advances from their employers and had subsequently refused to perform the obligations they had undertaken. It was dictated by the necessity of the circumstances. The British Government was faced with the Mutiny. During the period the Mutiny continued, the military engaged many artificers and many artisans to whom monies had been advanced in the expectation that they would render the service which they had undertaken to do, but by reason of fear or by reason of some other circumstances, those artificers and artisans went back to their native places and consequently were not in a position to perform the obligations that they had undertaken, although they had received an advance. It was to cover such cases that this Act of 1859 was passed. It is on record that although this Act was passed, which did make breach of service of contract a crime, it was very rarely put into operation; it was really not a law which people were brought to suffer under. Sir, the subsequent history of this Act is also interesting. This Act, which stood as a formal statute from 1859, but which, as I said, was never put into operation, was amended in 1920 by Act XII of the Government of India. The amending Act introduced two very salutary principles in this Act. One salutary principle that was introduced in this Act was that a magistrate, before punishing an artisan who had committed a breach of contract of service, was authorised to enquire into the equity of the contract, so that, if the magistrate came to the conclusion that the contract was inequitable, then, he was not authorised to punish the recalcitrant workman, notwithstanding the fact that he had taken an advance from his employer. That was the first change that was introduced by the Act of 1920. Then, the second salutary provision that was introduced by the Act of 1920 was that the magistrate was given the power to punish an employer who brought a frivolous complaint,—a provision which was not in the original Act.

Coming to the sections of the Indian Penal Code, the three sections to which I

referred have an interesting history. Section 490 dealt with a breach of contract of service during a voyage or journey. It was a section of a very limited application. It did not apply to all breaches of contract of service; it applied only to seamen who went on a voyage or a journey. Obviously, it was very necessary to make an exception of this kind in the case of service of seamen, on whose continued service the success and safety of the voyage depended. The other section, section 491, related to breach of contract on the part of an attendant in supplying the wants of helpless persons. It applied, for instance, to an ayah who had contracted to take care of a helpless child; it applied to a servant who had undertaken to supply the needs of a man who was lame and who could not look after himself. That was section 491. Then, section 492 covered a case of breach of contract of service at a distant place to which the servant was conveyed at the expense of the master. These were the three provisions that were enacted when the Indian Penal Code came into operation. Now, Sir, what has been the history of these three sections ever since they were enacted? The history is this, that by Act III of 1925 the Central Legislature has repealed section 490 and section 492. Those sections no longer apply, and the breaches of service which were crimes under them are no longer crimes at all. The only section, therefore, that remains is section 491 of the Indian Penal Code. So that, so far as the law now stands in India, the only breach of contract of service that can involve penal consequences, as distinguished from damages, is section 491 ; and I do not think that any member of the House would cavil at this provision if he knows that it is really intended to cover the case of a person who is a helpless person and who cannot look after himself.

Now, Sir, taking stock of all that I have stated so far relating to the legal position involved as a result of breach of contract of service, which, I say, is merely a popular description of that forbidding word " strike ", what is the position ? The position is this. A breach of contract of service is not a crime, and is not punishable under the Indian Law except When the case falls under section 491. That means it is only a civil wrong; it is not a crime. And, further, it is a civil wrong for which the remedy can only be damages and never a specific performance. I want to emphasise that. Now, the question which I am sure the House would like to consider with all the seriousness that it can command is this: Why is it that the Indian law does not make a breach of contract of service a crime ? And why is it that the Indian law does not provide for a specific performance? Whatever answer other members of the House would choose to give, my answer is very simple. My answer is this, that the Indian Legislature does not make a breach of contract of service a crime because it thinks that to make it a crime is to compel a man to serve against his will ; [and making him a slave (Hear, hear.)] To penalise a strike, therefore, I contend, is nothing short of

making the worker a slave. For what is slavery ? As defined in the constitution of the United States, slavery is nothing else but involuntary servitude. And this is involuntary servitude. This is contrary to ethics; this is contrary to jurisprudence. Sir, the framers of the Indian Penal Code were very much concerned when they drafted the provisions to which I have just referred, namely, sections 490, 491 and 492, as I see from the head-note here; they evidently had great qualms of conscience, and they were wondering whether they would be right in enacting even the small provisions contained in sections 490, 491 and 492. This is what the framers of the Indian Penal Code said with regard to Chapter XIX, which is headed " Of the Criminal Breach of Contract of Service ":

"We agree with the great body of jurists in thinking that, in general, a mere breach of contract ought not to be an offence, but only to be the subject of a civil action. To this general rule there are, however, some exceptions. Some breaches of contract are very likely to cause evil such as no damages or only very high damages can repair, and are also very likely to be committed by persons from whom it is exceedingly improbable that any damages can be obtained. Such breaches of contract are, we conceive, proper subjects for penal legislation." With all the great survey that they had made of the different kinds of acts of omission which could be penalised, they found that the only acts of omission which could be penalised, consistently with the provisions of ethics and jurisprudence, were these three provisions, and nothing more.

Now, Sir, it has been said that there is no such thing as the right to strike. My reply is that this statement can come from a man who really does not understand what a strike is. If members are prepared to accept my meaning of the word " strike " as being nothing more than a breach of contract, then I submit that a strike is simply another name for the right to freedom ; it is nothing else than the right to the freedom of one's services on any terms that one wants to obtain. And once you concede the right to freedom you necessarily concede the right to strike, because, as I have said, the right to strike is simply another name for the right to freedom. A sort of ridicule is sought to be poured upon it by saying that this is something like the divine right of kings. Sir, I would only say in reply that a poetic phrase or a picturesque description does not dispose of an argument; I have never seen that result anywhere—certainly not in courts of law. If you accept that the right to freedom is a divine right, then I contend that the right to strike is a divine right. (Hear, hear.) I go further and say that because ten people or twenty people or two hundred people simultaneously declare a strike, that cannot make any difference in the situation so far as the law is concerned.

I know. Sir, that some will point out section 120A of the Indian Penal Code

and I am going to deal with that matter before I leave this subject. Now, Sir, section 120A of the Indian Penal Code is a section which deals with conspiracy. I wonder if members opposite wish to argue from it that there is no right to strike because a strike by a body of workers is a conspiracy. If they do, I would like those gentlemen opposite who rely on section 120A as a ground for submitting that there is no right to strike for a body of workers, to prove that a strike is a conspiracy. Unless they prove that a strike is a conspiracy section 120A will not apply, and I contend that a strike is not a conspiracy.

An Honourable Member : Who says it is applicable ? It is a matter of public utility.

Dr. B. R. Ambedkar: I am coming to the question of public utility later on.

Sir, unfortunately we have no decided cases in India. My research is not rewarded with a case where strikers have been hauled up under section 120A on the ground that it was a conspiracy. But I find some support from the English law on the subject, which also deals with strike in its aspect of conspiracy, and I will read to the House a short passage from a book called " The Legal Position of Trade Unions " by Scholosser. I read the passage at p. 76:—

" Strikes, therefore, and similar combinations to better the conditions of labour, are not in themselves unlawful at common law. There is no foundation for the proposition that strikes are *per se* illegal or unlawful by the law of England. It is true that occasional dicta are to be found to the effect that combinations to better the conditions of labour are unlawful at common law, but the courts have never accepted the law thus laid down, and eminent judges have expressed views to the contrary. Throughout the seventeenth and eighteenth centuries no court treated combinations to better the conditions of labour as being contrary to common law, and none of the series of legislative enactments, resisting attempts of workmen to better the conditions of labour, purported to declare or rest upon the common law. If we accept an *obiter dictum* by Grose, J., in Rex *v.* Mawbey, there were no judicial dicta in support of the suggested proposition until after the Legislature swept away all those statutes by the Combination Act of 1925. Conclusions as to the common law which first appear in recent times, and are based upon an accepted principle of earlier date, are to be looked upon with great suspicion. Ever since 1824 the weight of authority is against this doctrine. Strikes *per se* are combinations " This is an important part of the judgement :

" neither for accomplishing an unlawful end, nor for accomplishing a lawful end by unlawful means. The law is clear that workmen have a right to combine for their own protection, while the combination is to obtain a benefit which by law they can claim. The power of choice in respect of labour and terms, which one may exercise " This is the point I was trying to emphasise:

" and declare singly, many, after consultation, may exercise jointly, and they may make simultaneously declaration of their choice, and may lawfully act thereon for the immediate purpose of obtaining the required terms.

The maintenance of a strike is not necessarily illegal, and if a strike has taken place, in breach of contract, but the broken contracts have expired, those who help to maintain the strike by supporting the workmen after their current contracts have expired in a refusal to enter into new contracts of service on new terms, are not doing anything illegal.

Thus combinations"

This is the point to which I wish to draw the attention of the House, because it has a direct bearing on section 120A of the Indian Penal Code, "which result in injury to another may be unlawful, when the object of the 14 combination is injury " the words are " when the object of the combination is injury ":

" and if the injury is effected, an action may lie for conspiracy. The question to be decided in each individual case is, haw far the resulting injury is ancillary to a legitimate combination and how far the combination exists for the purpose of injury."

Therefore, my submission is that in order to bring strikes under section 120A what would be necessary for the prosecution to prove is that the purpose of the strike was to cause injury. If injury merely resulted from the strike, that would not make the strike an unlawful combination within the meaning of section 120A. Therefore, my first contention is this that this Bill, by penalising a strike, is reducing the workers to a state of slavery and nothing else.

The Bill really, in my judgement ought to be called " The Workers' Civil Liberties Suspension Act ". That would be the proper title for it. Some have got the impression that, after all, the suspension is only for two months— until the conciliation proceedings are terminated—and after that the workers would be at liberty to strike if they wish. Sir, I would like to say that this would be a very wrong impression. My contention is that the provisions of this Bill, when they are set in operation, will bring about perpetual slavery and the workers will never be able to strike. Let us look at the provisions. First of all, the Bill provides that when the Act comes into operation, there is not to be any strike at all for one year. Whether conditions are such that a reasonable worker would accept them or whether conditions are such that no reasonable worker would accept them, for one year there is complete slavery. The workers are bound down to the terms mentioned in the Second Schedule. There is no escape, there is no going away from that position. What happens after the first year is over ? What happens is this : You have got to give notice; that takes away a part of the time during which you cannot strike. Then after notice is given, time is allowed for reply. During the period of reply you cannot strike. Then,

conciliation proceedings commence. They may last for two months, if the parties are fortunate, if the parties are reasonable; but the Bill provides that the term may extend to four months. Therefore, from the date of the origin of the grievance of the workers, for four months and practically 25 days—1 will stand corrected if my calculation is wrong because I have not gone into the details—the worker must do nothing. He must not talk, he must not deliver a speech, he must not organise, he must do nothing. All mobilisation, included a word or a speech or an action is penalised during this period. Suppose that no conciliation is effected during this long period of four months and 25 days—1 submit a long period of gestation—what is to happen ? The worker is allowed only two months to strike after the conciliation period is over. I do not know whether my honourable friend the mover of the Bill thinks that two months is a sufficiently long period for the demobilised forces of labourers to mobilise for action. I have been an active worker in the labour field. I cannot say that I am a fieidman and I therefore do not know what are the difficulties which a person who is organising the workers for strike will have to meet. But looking at the situation from such experience as I possess as an observer in the City of Bombay, I have not the slightest hesitation that two months would be the most inadequate period for a body of labourers who have been held at bay so to say, for four months and 25 days to mobilise their forces in order to strike. If they do not strike within two months, what happens ? What happens is this that they are deemed in law to have accepted the situation. If they again raise their head and find out new grievances, the law says you shall again wait for four months and 25 days and allow conciliation to go on. Wait and see what we do. Wait and see, for four months and 25 days. Again if nothing happens at the end of four months and 25 days, if you think you can strike, do so within two months. If you do not and after two months you raise another grievance, you shall have to wait again for four months and 25 days. Sir, I would like to know whether such an endless cycle of don'ts would not produce complete slavery, perpetual slavery, of the workers for all time. If this is not a Bill for introducing slavery amongst workers, I would like to know what sort of Bill would introduce slavery. So much with regard to the provisions of the Bill which relate to strike.

Now, Sir, it will be necessary and I say very instructive to compare the provisions of this Bill, in so far as they relate to strike, with the provisions contained in Trade Disputes Act of 1929. That is an Act which also imposes certain limitations upon the right to strike and it would be, therefore, very instructive to compare the provisions contained in that Act with the provisions contained in this Bill, so that the House may be in a position to realise in what direction we are moving, whether we are moving in the direction of slavery. Sir, the Act of 1929 imposes certain limitations upon the right of the workers to

strike and it would be enough if I refer to two of its sections. That Act of 1929 penalises a general strike for political purposes. That is section 16 of the Act and the other section which is more relevant for my purpose is section 15 which penalises a strike without notice. Apparently there does appear to be some sort of similarity between the Act of 1929 and the present Bill in so far as this Bill also penalises a strike without notice. But, Sir, beyond that the one Bill is as different from the other as chalk is from cheese. The one has nothing to do with the other and, comparatively speaking, I have not the slightest hesitation in saying that this Bill is reactionary and retrograde, and that the author of this Bill is a far greater Tory than the author of the Act of 1929.

Sir, let us compare the provisions of section 15 of the Act of 1929. As everyone who is acquainted with the subject knows, that section 15 of the Act of 1929 is restricted to public utilities. What that Act penalises is not all strikes, but strikes in what are called public utility services and this, I submit, is a fundamental difference between this Bill and the Act of 1929. Now, Sir, the question that I would like to ask is, is this departure from the position taken in 1929 any way justifiable ? And I think it would be desirable if I begin by stating what was the position of the Congress Party in 1929 when this Bill was placed before the Central Assembly. Now, Sir, I have taken the trouble to hunt up and read the report of the Select Committee which was appointed by the Central Legislature to consider the provisions of the Bill which ultimately became the Act of 1929 and confining my attention to the two contestants, if I may say so, the bureaucracy, I use the terms which are familiar on the other side, the bureaucracy, on the one hand and the Congress Party on the other, what were the points of contention there when this Act of 1929 was on the anvil ? I find that the points of difference were these two. Government wanted that public utility services should be left to be defined by them at their discretion. They did not want to give in the Act itself a definition of what was a public utility nor were they prepared at the time to enumerate what, in their opinion, were the public utility services. They said that a public utility and its importance depended upon the circumstances of the case. It may vary according to times and circumstances. A service which may not be a public utility at one time may be a public utility at another time and they felt that in the interests of society as was conceived and understood by them it was necessary that the situation should be left in a flux undefined to be defined at the discretion of the Government. Now the Congress stood for two things at the time. The one thing it stood for was that nothing should be left to the discretion of the bureaucracy, that it could not be persuaded to bureaucratic purposes and therefore the Congress Party took the attitude that no discretion ought to be left with the Government. Whatever public utility was to be brought within the purview of section 15 ought

to be stated clearly in the Act itself. The second position which the Congress Party took in the year 1929 when the Bill came up was this. They said that the category of a public utility was too large and that a strike should not be made illegal only because it related to a public utility serivce. The position that they took was that it should be confined to what is called " social security services ". That was the position in 1929. In this contest Government gave up on one point. They agreed that a public utility should be defined in the Act and therefore you will find, Sir, that section 2 of the Act, which is an interpretation clause, has got a definition of what is a public utility and you have got there a public utility enumerated, Government not having any discretion to add to it or to take anything out of it. With regard to the other position, namely, narrowing the category of service to which the illegality of the strike was to be confined, Government did not yield. Government said that their formula that it should be extended to public utility services must stand and the Congress Party did not succeed, but that does not really matter for my argument, because my argument is this that in 1929 the Congress Party stood for restricting the illegality of the strike to social security services. Sir, I want to read from the report of the select committee some of the minutes which members of the Congress wrote. I believe the honourable member Mr. Jamnadas Mehta was a member of the Congress then, but I am not sure.

Mr. Jamnadas M. Mehta: I have maintained that attitude even today.

Dr. B. R. Ambedkar: This is, Sir, from a minute written by Mr. Jamnadas Mehta, Mr. M. S. Sesha Aiyangar, Mr. S. C. Mitra and Mr. V. V. Jogiah :

" The fundamental objections to the Bill as it emerges from the Select Committee remain unaffected. We feel that clauses 15 and onwards, far from settling trade disputes, will only multiply them; they will embitter relations between the employer and the employed and will, as all experience of similar legislation testifies, be utilised by the authorities for crushing political propaganda unpleasant to the bureaucracy. If the object of the Bill is to develop and foster genuine trade union movement in the country, clause 15 and onwards will surely defeat that object." That was the position that they took that no strike ought to be penalised even though it was applied to public utility services. The minute of dissent proceeds :

"..... But having failed in that object we are obliged to append this minute of dissent. Up to clause 14 the Bill is a genuine attempt towards settlement of trade disputes by means of courts of inquiry and boards of conciliation. We believe that so far as that portion of the Bill is concerned, it emerges from the Select Committee considerably improved and strengthened. Almost all the changes that have been made in the Bill up to that clause have served to make it more equitable and just. Of course we leave out of account the definition of

the ' public utility services ' in clause 2(g). That definition is consequential to clause 15 and should therefore be considered along with it. We believe that this clause is a great danger to friendly relations between the employers and the employed. A public service may be a ' utility service ', but it does not therefore follow that a strike in such services without notice ought to be visited with criminal prosecution. It is true that a lock-out in such services has been made an offence also, but that does not affect the argument against making a strike a penal offence. We cannot understand why a strike in a postal, telegraph or telephone service or for the matter of that in any Railway service should be made a crime. No doubt such a strike is inconvenient and interferes with our ordinary comforts, but it is monstrous to claim that if any body of men refuses to minister to our comforts if any to claim that body as criminals especially when the strikers feel that these comforts and conveniences can only be satisfied by their own degradation and misery. Can it be seriously contended that the Frontier Mail and similar luxurious services are so vital to society that strikes thereon should be made illegal ? "

I commend these last few lines to my honourable friends opposite. Then the quotation goes on :

" For the Legislature to give sanction to so iniquitous a doctrine as the one which is embodied in clause 15 is to proclaim to the world that the mass of mankind ought to remain wage slaves and that they would strike only on the pain of being clapped into jail. We are most anxious to promote the industrial advancement of our country but not by methods of coercion as proposed under this clause. We grant that services like the supply of water, light and sanitation are absolutely essential to the very existence of society and that any strike in such services should be discouraged by all legitimate means, not because they are ' public utility services ' but because they are ' social security services '; and as no man could be permitted to have interest against the very existence of society, we are not opposed to any legislation against making strikes in the 'social security services' illegal ....."

Sir, that was the position the Congress members took then. Sir, I would also like to read an extract from the minute of dissent appended by Mr. Kunzru. He is a Liberal. I emphasize that because you would be able to know what even moderate men who did not profess the principles and policies of Congress said in 1929. This is what he says :

"Clause 15 which deals with strikes in public utility services renders a strike in violation of the terms of services without previous notice illegal. If it was attempted to make sudden strike penal only in services where stoppage of work without adequate notice would endanger human health or life, the case for such action would theoretically be clear, however difficult the enforcement of the law

might be in practice. But the definition of a public utility service in spite of the deletion of that provision by the Select Committee which would have vested Government with a discretionary power to declare any service a public utility service still includes services sudden strikes in which, whatever the inconvenience they may cause, cannot involve danger to life. However undesirable sudden strikes may be in any undertaking, there is no ground for making them penal where they do not affect the safety of the community. It may further be pointed out that sudden strikes in services which affect the existence of the community have been remedied by the provinces. Besides strikes, if resorted to in breach of contract, can be severely dealt with under the Indian Penal Code ....."

That was the attitude of Mr. Kunzru. I too agree in the proposition, that the right to strike without notice should be restricted, but it should be restricted only in case of service which are not public utility services but social security services. Now, Sir, that is in perfect consonance with the English legislation. In this connection, I would like to draw the attention of the House to what is called the Emergency Powers Act of 1920. It was passed by the British Parliament a year or two after the War was over. There too Government was given power to make regulations to deal with emergencies. I will just read one or two sections from that Act. Section I

says:

" If at any time it appears to His Majesty that any action has been taken or immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be calculated to be interfering with the supply and distribution ....." I desire to draw the attention of the House to these particular words :

" of food, water, fuel or light or with means of locomotion, to deprive the community or any single portion of the community of the essential services ....."

" His Majesty may, by proclamation declare that a state of emergency exists." Then section 2 says :

" Where a proclamation of emergency has been made, and so long as the proclamation is in force, it shall be lawful for His Majesty's Court, to make regulations for securing the essentials of life to the community, and these regulations may confer or impose on a ..... Government ..... such powers and duties as His Majesty may deem necessary ....." The point to bear in mind is that all this is confined to cases of essential to public safety and life of the community. This has always been the view taken, that if you want to restrict the right to strike and to make it illegal, then you must do it only in relation to services on which the sustenance of the life of the community depends. Now, it

is obvious that this Bill extends to every trade and every industry. I do not wish to say anything with the object of making fun, but I should like to illustrate my point by saying that, supposing tomorrow the Indian women—1 hope they do not—adopt the fashion of painting their lips and some manufacturer who had a nose for money started an industry for making lip-sticks for supplying their needs, and if under this Act the workers went on strike, its provisions would fall upon their head like the sword of Damocles. Can anybody seriously maintain that the lip-stick industry is essential to life, that the right to strike should be curtailed because some women are deprived of the pleasure of having the usual paint on their lips ? Sir, this Government has not only let go by the board the attitude that it took in 1929, of restricting the penalty to strikes in social security services, but they have beaten the bureaucracy by going beyond the provisions of the Act of 1929. The bureaucracy had at least the sense, if I may say so, the responsibility, to realise that the right to strike was so important that it should not be penalised beyond the four corners of what was covered by public security; and here is a Bill which, I would like to repeat, would make a strike in the lip-stick industry penal.

All this, for what? What are we to gain by all these trials and tribulations which they are trying to impose upon these poor workmen ? The result, as I see, is to wait at the table of some gentlemen, whom the Bill calls the conciliator, for 4 months and 25 days. Beyond that I see nothing. The Honourable the Home Minister said that one of the reasons why this Bill has been introduced was because the State was taking upon its own shoulders to collective bargaining. I think he said something to that effect. If I am wrong, I hope he will correct me.

The Honourable Mr. K. M. Munshi: No ; not taking upon its shoulders collective bargaining, but regulating collective bargaining.

Dr. B. R. Ambedkar: Regulating collective bargaining. I shall be very candid. What is the use of these regulations ? There are heaps of regulations in the Civil Procedure Code. Is the litigant interested in them ? The litigant is interested in the result of his suit. With all the formalities, with all the provisions and procedure, who is to give notice, what is to happen after notice, who is to draft the written statement and all other things—the hungry workman is not interested in them in the least.

The Honourable Mr. K. M. Munshi: Therefore, repeal the Civil Procedure Code?

Dr. B. R. Ambedkar: I do not say anything of the kind. What I am saying is, with all the provisions that they have got, they should have bucked up, they should have had the courage and said " we shall compulsorily arbitrate, whether you agree to it or not ". (Interruption.) It is another matter whether I agree or not. If you had taken up that attitude, I could have certainly understood

it, because the position then would have been this, that at the end of 4 months and 25 days you would have been certain of some tangible result.

An Honourable Member : That would have been slavery to the wage earner.

Dr. B. R. Ambedkar: You have enough, and you need not have been abashed for going a step further in this Bill. (Interruption).

The Honourable the Speaker: Order, order.

Dr. B. R. Ambedkar : Therefore, Sir, what is all this for ? You have to go through several stages—a Registrar, a Conciliator, and a Board of Conciliators if both parties agree. It is only a case of securing appearances before certain amiable gentlemen who will talk sweetly to different people and bring about probably a good temper, if a hungry man who wants some thing can be said to be in a good temper. I do not see anything in it. This is, in my judgement, absolutely a futility, an utter futility which can have no tangible result at all. The only tangible result of this will be that this delaying process for 4 months and 25 days will disable the worker from going on strike ultimately. Here again, I would like to draw the attention of the House to the contrast that exists between the Bombay Act of 1934 and the present Bill. Sir, when the Bill of 1934 was on the anvil, it was suggested that a strike should be prohibited during the period of conciliation. There was a proposal to that effect. But that proposal was rejected by the Honourable Sir Robert Bell. It was even pressed upon him that if a strike was not prohibited, at least picketing ought to be prohibited, but he refused even to be a party to that. (An Honourable Member : No, no.) As there is a challenge, I will read a portion of his speech. This is what he says on page 180, Vol. XL**,** of the Bombay Legislative Council Debates :

" I wish to refer to one matter connected with the subject of picketing. In clause 15 you will see that provision is made for preventing picketing of conciliation proceedings and also for preventing molestation of any individuals in order to prevent them ' from carrying on their usual work or business during a conciliation proceeding connected with such work or business '. In other words, it was the intention of Government that after conciliation proceedings began, picketing at the mill should not be allowed. Even if a strike is already in progress, it was intended that picketing in the mill premises should be stopped. If the two parties intend to come to a settlement, it was considered that this would be a desirable measure. On the other hand, we have no prohibition against the employees locking out the mill hands. It is considered in some quarters that the right of picketing is something like a sacred right and, after full and careful consideration, we have decided to move an amendment to omit the words in clause 15 which prevent picketing at the mill gate." That was the position that he took, and, Sir, I do seriously contend that if a strike was permitted conciliation would be more probable. That is an aspect which I think

has not been considered at all. Why should an employer be ready to conciliate when he knows that he has got 4 months and 25 days to mobilise his forces, when he knows that within the 4 months and 25 days no worker can mobilise, no worker can prepare, and when he knows further that the time within which to go on strike is limited only to two months ? There is no incentive, there is no pressure, there is no urge on the employer, in circumstances of this kind, to come to terms; and if the honourable mover of the Bill is of opinion, and his object is, that this conciliation machinery should fructify, should result in some sort of tangible good which would be acceptable to both the parties, then I submit that the proper procedure to adopt is the procedure adopted by Sir Robert Bell, namely, to permit the strike to go on, in other words, to continue the provisions of the present Act. But, Sir, here the Government is not even prepared to take the position which a bureaucrat took. The position that was taken up by a bureaucrat was that a strike need not be prevented while a popular Government, which claims to be elected on Labour votes, which does not stand by the position taken by one whom they always regarded as a bureaucrat, with no interest for Labour and no interest in the welfare of the country. If this democracy—well, it might be, but I do not say it is democracy—a democracy which enslaves the working class, a class which is devoid of education, which is devoid of the means of life, which is devoid of any power of organisation, which is devoid of intelligence, I submit, is no democracy but a mockery of democracy. So much for the main provisions of the Bill.

Then, Sir, there are certain other provisions of the Bill to which I wish to advert, and these provisions are contained in clauses 4 to 20. Looking at the clauses, they refer to four different topics. They refer to different clauses of unions,—qualified unions, registered unions, representative unions. Sir, I had the opportunity of reading the previous draft of this Bill. That previous draft had a different phraseology, such as horizontal unions, vertical unions, diagonal unions and perpendicular unions. I am glad that that phraseology has been dropped. I was never strong in mathematics, and certainly knew very little geometry, and I think for the small mercy that we have got for the change of phraseology it would be proper if I rendered my thanks to the honourable mover and those who have prepared the present Bill. The second thing with which these clauses deal is the terms and conditions and the procedure with regard to the registration of the different classes of unions. Thirdly, the terms and conditions and the procedure for these recognised unions or registered unions to be declared representative unions, and fourthly, the conditions for the registration of a union and for the cancellation of its declaration as a representative union. Now, Sir, I have been considerably at a loss to understand what practical connection these clauses have with the main

provisions of the Bill. The main provisions of the Bill are, firstly, compulsory conciliation and, secondly, penalty for strikes during conciliation proceedings. To my mind, I do not see any organic connection between these clauses and the other clauses in dealing with these two topics which are the main purposes of the Bill. And, referring to the title of the Bill, I found that rather than disclosing the purpose it tries to conceal it. The Bill has a title which says " A Bill to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and for certain other purposes ". Sir, what are the other purposes ? And why have they not been specified in the title of the Bill ? Is it something of which one need feel ashamed ? I do not know. Either there is some practical connection between the two parts of the Bill or there is not; if there is, that ought to have been disclosed, and if there is no organic connection, then the logical conclusion is that these sections ought to be deleted from the Bill. But, Sir, my search has been rewarded by the discovery that there is an organic connection between the two. What that organic connection is, will be readily seen by reference to clause 75 of the Bill. Clause 75 of the Bill says :

" No employee shall be entitled to appear in any proceedings under this Act except through the representative of employees." Sir, this clause is the most fundamental and I say this is the most destructive clause of all trade unionism in India. Who is a representative of employees who is entitled to represent labour in conciliation proceedings ? No one will have any *locus standi* in any negotiations for the settlement of an industrial dispute, no matter what his qualifications may be, unless he falls within the definition of what is called by this Bill as a representative of employees, and it is for the purpose of defining who is a representative of labour my honourable friend has introduced clauses 4 to 20 in the Bill. They all hang on this section. The important question, therefore, is who is a representative of employees under this Bill ?

Now, Sir, under this Bill. there are two categories of unions which will have the right to represent labour. The first is a union which has 20 per cent. of the workers as its members, or rather not less than 20 per cent. Of the workers as its members, and recognised by the employer. Secondly, a union whose membership is more than 50 per cent. can represent labour in the conciliation proceedings. These are, therefore, the two categories of unions which alone have the right to represent labour. Now, Sir, my honourable friend the Minister chooses to call them " representative unions "—both of them. I disagree with his terminology. I think a spade ought to be called a spade. Calling a spade a spade, what I submit is this : there are, no doubt, two kinds of representative unions under this Bill, but the important point to note is that one is a slave .union and the other a free union. Sir, there is no exaggeration and there is no

violence done to language if I say that a union which can have *locus stand,* a legal existence, a right to represent and a right to speak, only if it secures the prior approval of the employer is a slave union and not a union of freemen. I wish he had used the word "approval"; the word "recognised" is very inappropriate; the proper definition should have been " a union approved by the employer ", as we would then have seen in plain term what we are asked to give our sanction to.

Now, Sir, what I do not understand—and my honourable friend will explain it to me—is why he has made registration under this Bill a condition precedent for a union to obtain a representative character. I find great difficulty in understanding these provisions in the Bill. Sir, the provision as it stands today is this. There is a Trade Unions Act passed by the Government of India in 1926. It is called the Trade Unions Act. The Bill does not repeal that Act; in fact, that Act remains, and further this Bill insists that any union before it can be registered under the provisions of this Bill must be registered under that Act. That is clear from the definition of a union given in this Bill. I will presently tell the House why this has been done. I find that there is some design behind it. The position is, therefore, this : a union has to have two-fold registration, registration under the Act of 1926 and registration under the new Act. It seems to me that it would be better if I adverted to the advantages which registration under the Act of 1926 gives to a union which is registered under it, so that we may know what is it that this Bill gives in addition or whether there is anything which this Bill takes away. Applying my mind to the effect of registration of a union under the Act of 1926, these are the results that follow. The union becomes a corporation with a right to sue and to be sued. As a corporation it has certainly a right to represent its members; otherwise, a corporate entity has no meaning. Secondly, as the House will realise, under the Government of India Act, 1935, a union registered under the Act of 1926 gets the right of political representation, that is to say, a union registered under the Act of 1926 can elect members to this House, and there are honourable members in this House who will bear testimony to that fact. Similarly, members of unions which are registered under the Act of 1926 have the right also to send representatives to the Bombay Municipal Corporation. Now, Sir, the question that arises is this If registration under the Act of 1926 gives the unions the right to represent, where is the necessity of requiring further registration under this Bill ? If a union registered under the Act of 1926 is competent to send members as representatives of the whole labour body to speak in this House, to vote in this House, where is the necessity of requiring registration under this Bill ? I should like to have an answer to that question later on. What the Bill does is a very queer thing, which again I am not able to understand. A union registered under the Act of 1926 will not have,

under the House to realise the anomaly of the position. A union registered under the Act of 1926, while it is competent enough to represent workers in the Legislature, is not competent under this Bill to represent labour before the Conciliator. Why is this anomaly ? The Bill does not merely create an anomaly. I say it takes away a privilege from the unions which are registered under the Act of 1926.

In this connection, I should like to draw the attention of the House to what used to take place under the provisions of the Bombay Act of 1934. When conciliation proceedings started, members who know the provisions of that Act will remember, under section 9 the labourers were represented by delegates. That was the provision in that Act. This is the wording of section 9:

" On receipt of notice under section 8, the parties to a trade dispute shall within the time specified in the notice or within such time as may be fixed by the Conciliator in this behalf, appoint delegates in such manner as the Conciliator may direct."

Therefore, labour, in conciliation proceedings under the Act of 1934, was represented by delegates. How were these delegates chosen ? Who were the parties who were entitled to choose those delegates to represent labour before the Conciliator, under the Act of 1934 ? Sir, I have gone to the rules made under this Act, and a reference to the rules will show that the parties who were entitled to elect delegates were the registered trade unions, the unions registered under the Trade Disputes Act of 1926. That is provided by rule 3 of the rules made under the Bombay Act of 1934. It is, therefore, clearly established that up to this moment a union which was registered under the 1926 Act of the Central Legislature, by reason of the fact that it was a corporation, had the right to represent workers in all places and at all junctions. Constitutionally, by the Government of India Act of 1935, they have been given the right to represent labour in the Legislatures, and the Bombay Act of 1934 specifically recognised that the trade unions registered under that Act, namely, the Bombay Act of 1934, were the only bodies entitled to send delegates before a conciliator. Sir, my first complaint is that this Bill takes away a valuable right which the unions had and gives it—to whom ? It gives it to slave unions, as I am going presently to show. If it was given to free unions, I would not mind at all. Then, Sir, why is it—this is an important point to understand—why is it that the unions registered under this Bill are also required to be registered under the Central Act of 1926 ? Sir, it is nothing else but a piece of carpet—bagging, as the Americans say. My honourable friend wants that the unions which will be formed under this Bill should not only get the right to represent before a conciliator but should also walk away with the political representation which the unions registered under the Act of 1926 now possess. It is a snatching policy.

And all this endowment of political and economic power, for whose benefit is it? I repeat again that it is for the benefit of the slave unions. Of course, if my honourable friend thinks that there is nothing wrong in having unionism based upon the principle of approval of the master, I have no quarrel. It is his philosophy of life; it is not mine. If he thinks that a man who is enslaved is a free man, it is his view; if he thinks that in order that we may have peace in industry the worker ought to be chained to his master, as he will be, it is for him; I have no quarrel. But, for myself, I am not prepared to accept that position. We do not want mere peace, and I repudiate the peace, the kind of peace that we are asked to have. (Mr. S. V. Parulekar : Hear, hear !) Certainly, it is the peace of a man who has a contended belly and whose stomach, touches his buttons. I do not want that kind of peace.

The question that I am interested in is this. I am prepared to take a charitable view of the matter, and I want to know whether this charitable view will fructify and produce anything. It may be, as my honourable friend says, that there is no unionism in India; it may be that there are people who are spoiling the growth of unions. I am surprised that he should still entertain the fear of members of the communist party, who were a thorn in the side of the Congress before, but who have now walked in—they avow peace, they avow truth, they avow non-violence, and they have even paid four annas, as I understand,—why, I ask, should he have any fear now of anybody spoiling the game of peaceful development of labour ? Supposing it to be so, let us see how all this will end. If my honourable friend can satisfy me that there will come a time when what I call the slave unions will ripen into free unions, I probably might reconsider my attitude again. But I have not the slightest hesitation in saying that there will never be free unions at all; and that is because the conditions that he has imposed upon free unions are so impossible that they could never be fulfilled. What is the condition for a free union ? The condition is that you must at all times show that on your roll you have got 50.1 per cent. membership; that is the condition. Twenty per cent., not enough: 25 per cent., not enough; you must always show the mathematical proportion of 50.1 per cent. if you want to be free. Sir, the question I should like to ask is this : Is this a reasonable condition ? The laws of the Romans, if I may use the analogy, began with enslavement. There was a provision for manumission, as we technically say. The slave ultimately became emancipated and became a free man, a civis. Applying the same analogy, I say that we begin with slavery, because the approval and the recognition are nothing less than slavery. But is there any provision for manumission ? And if there is such a provision, is it a reasonable and a possible condition which workers can be expected to satisfy ? The condition is that you must show 50.1 per cent. membership of the total number of workers

then and then alone you can escape the chains and the throes and the punishment of your master. Is that a possible condition ?

Now, Sir, we, who have been what my honourable friend probably likes to call misguided fellows, have been asked to turn our attention to the ideal situation that exists in Ahmedabad. We are asked to take a leaf out of that Ahmedabad book and to follow that ideal. I am prepared to do that. As I study the example it becomes necessary to ask this question : is there any possibility, under this Bill, of even the Ahmedabad Majoor Mahajan becoming a free union ? I cannot see any hope of that union becoming a union of free workers. Ahmedabad is certainly a most ideal place; as the Royal Commission has pointed out, there does not exist anywhere in India such an ideal institution. There, there are employers who belong to the same religion as the employees, barring a few Mohammedans, who are weavers, and who are outside the union; the workers speak the same language as their masters. Cultural unity there exists in abundance. Therefore, whatever fissiparous tendencies, whatever recalcitrant tendencies, that one might expect in other situations do not exist there. On top of that, there is the great personality of the Mahatma, to whom every recalcitrant may refer and bow, and fall in line no matter what his personal grievances may be. The Ahmedabad Majoor Mahajan has grown under such auspices. It has had a life of more than two decades ; I am told it has been in existence for eighteen years. What is the state of that union ? I have got figures here in this book, called the Labour Gazette for May 1938, and on Analysis I find this to be the situation at Ahmedabad. I am taking only the textile industry. The total number employed in the Ahmedabad textile industry is 90,000. What is the total number of workers who are included in the union ? The Majoor Mahajan, as everybody knows, is a federation of five different unions; and the total number is 22,000. That is on the first of May 1938. Sir, that works out—1 am a poor mathematician, I will stand corrected if somebody rectifies my figures—that works out, according to me, at 21 per cent. of the total; that is to say, the union membership is 21 per cent. of the total number of workers in the textile industry. Applying that test, as I said, even to Ahmedabad, can anybody say that the Ahmedabad Majoor Mahajan, if it were to apply for registration today, could do without the approval of the employers ? No. (The House re-assembled after recess at 2-30 p.m.)

Dr. B. R. Ambedkar: Mr. Speaker, Sir, before recess I was trying to emphasise that under the conditions prescribed in this Bill there is no possibility of any free union growing up in this country and I illustrated what I wanted to say by reference to the position of the Ahmedabad mill workers' union, and I showed that even under the most propitious conditions that exist in Ahmedabad, it would not be possible for the Majoor Mahajan there to be a free

union, entitled to recognition under the Act, without securing the approval of the employer. Sir, this is really such an impossible condition that it would be impossible to realise it even in such an industrially organised country as England. Unfortunately, in all the books to which I had access, we get a set of figures showing the total membership of different unions in the country, but we do not get anywhere, along with it, figures showing the total number of persons employed in the different industries in the country : and, consequently, it is not quite easy to find out what is the total percentage of the workers in England who can be said to be members of the unions in the country. But I have here a small book by Mr. Walter Citrine published in the year 1926. Every one who is familiar with the trade union movement in England, will know that he occupies a very important position in the trade union movement and his book, therefore, may be taken to be an authoritative statement on the issue with which we are concerned. He has shown that at the end of the year 1924—the figures are unfortunately not very recent—the position in England was this that the total number of persons employed in the different industries was 18 millions, while the total number of persons who were members of the unions, both males and females, was only 5,531,000. That means that it certainly was not more than about 30 per cent. Now, if that is the state of affairs in a country like England where labour is so well organised, where the industry is so widespread, what can we expect in a country like India ? I therefore submit. Sir, that this condition, which the Bill imposes, is an impossible condition and no kind of an organisation of labour, which I am able to visualise even for 10 or 20 years, will be able to muster itself so strong as to show at all times on its record a membership which would be as much as 51 per cent. Consequently, the conclusion is irresistible that the only kind of labour union that will be representing labour in the conciliation proceedings in the strike will be none other than the slave union recognised by the masters.

Now, Sir, there are two other questions, to which I wish to draw the attention of the House, and they are also very important questions. The first question is this. What is to be the effect of the Bill on the growth of the trade union movement in India ? From that point of view, I submit that the most important section in the Bill is clause 8, sub-clause *(a).* Now, that clause lays down a principle, which, as I will try and show, is of the most unusual character. The clause says "the Registrar shall not register more than one union in any local area m respect of any industry or occupation, as the case may be ". In other words, what the Bill provides is this. It says to the workers that if they want to organise into a trade union they can have only one union in one industry or occupation, as the case may be. In other words, what the Bill provides is this. It says to the workers that if they want to organise into a trade union they can

have only one union in one industry or in one occupation in a certain defined local area. Now, Sir, my contention is that is a provision in the Bill which, I am sure, will prevent unions growing up in this country. First of all, what I would like from the Honourable the Mover of the Bill to know is this. Is this principle applied anywhere in any other part of the world ? Now, Sir, I have studied the conditions of trade union organisation in so far as Great Britain is concerned, and I am prepared to cite an authority of a person who is eminently versed in this field to prove that certainly in Great Britain the law makes no such provision at all. In fact, the English law has left it to the workers to organise on any lines that they choose to adopt. There is no rule as such that the union must be confined to one industry, that the union must be confined to one occupation. There is no rule that the union must coyer a particular area. On this point I would like to draw the attention of the House to a passage in a recent book called " The Employment Exchange Service of Great Britain " by Chegwidden and Myrddin Evans, and this is their conclusion. I am reading from page 30:

" All the workers in a particular industry are not necessarily organised in the same union but may belong to several different unions : in some cases organisation is on a district basis, in others on an occupational basis, and a section of workers in a particular industry may even belong to the union which normally caters for workers in another industry or to a general labour union. In a number of cases sectional unions are federated either in a federation or union covering the whole or the greater part of the particular industry concerned, or in a federation or union covering members of the same or similar occupations in different industries, or any federations of general labour unions." This shows that in England there can be general labour unions. That is to say, workers working in different industries may join together and form a union. That is what is meant by general labour union. One labourer may have no connection with another so far as the industry or so far as the occupation is concerned. There may be a general union. This author also says that in England persons belonging to different industries may form one union. A man may be, for instance, a minor. He may become a member of some other union which has nothing to do with mines. Therefore, in England, the law has left entirely to the workers to decide in what manner, under what circumstances, they will organise. All that the law has taken care of is to see that the union does not become an unlawful body. All that the law has taken care to see is that the union before it is registered has certain objects which the law regards as lawful. Beyond examining the objects of the union, the English law certainly does not see whether the union is organised in a particular way or is not organised in a particular way and I do not understand why this principle should not be imported in this country. I have not seen the justification and I do not know what

is the reason for the principle that is being introduced now in this Bill. Sir, is it possible to have a union of all labourers in one industry or in one occupation ? Now I am sure that it is not possible and for this reason. As everyone knows, a trade union may have three different purposes or three different objects. A trade union may have purely what are called trade union purposes, that is to say, purposes connected with the promotion of their particular interests as workers, wages, hours of work, promotions in industry and so on. Those are called purely trade union objects. In addition to that a trade union may have what are called social objects conferring certain benefits, giving old age pension, giving unemployment benefit to these members, providing pensions for their widows. These are recognised in England as social purposes. In addition to that a trade union may have a political purpose. A purpose, the object of which is to promote a particular line of politics, which the union thinks is best suited for the protection of its economic and its social position. Now, Sir, the question that I want to ask is this. Is it possible for all persons who are employed in a particular industry to be agreed upon all these three purposes ? I cannot see that in all cases it would be possible to give an affirmative answer and I propose to discuss the matter in some detail in order to show why we cannot have an affirmative answer. Let me take a case like this. There is a body of people working, say for instance, in the textile industry in Bombay and I shall be very particular in this matter because I want to emphasise my point. There are certain Mohammedan members, workers in a mill industry. They are anxious to become members of a trade union. But the other persons who are non-Muslims desire that the workers of the union should follow the Congress line of politics. There are Muslim members who are prepared to join the union but who prefer to follow the politics of the Muslim League. How are they, the two bodies of people, to unite together unless one of the two parties is prepared to drop its political programme ? Take another illustration. There are certain workers belonging to the untouchable community. They are prepared to be members of a certain union, but they also insist that the union ought to promote certain social objects and social purposes for the benefit of the community from which they are drawn. They desire that certain other facilities may be provided and the workers from other classes do not agree with them. How is a union to be formed ? I do not understand. I do not understand why, therefore, you should impose a condition which makes things so impossible of achievement. I should have thought that the proposal which is included in this Bill is as wise or as prudent as it would be if a Health Officer were to lay down that you shall build a house of a particular kind, you shall have a door only facing the south, no door facing the north, you shall have only a particular kind of window, a house not higher than a particular height, a house which has only a particular

kind of elevation. Either you build a house which conforms to these rules or you live on the street. That is the kind of alternative that this Bill presents to the workers. What would be the evil if the matter of the organisation of labour is left to the will of the worker ? Why are you concerned with it ?

I do not understand. Why is it and what is it that you will get by bringing all persons working in one industry in one particular union ? I fail to understand. On the other hand, my view is, as I submitted, that if you make these impossible conditions, people will not care to form unions at all. The Mohammedans who prefer, and I think we must all agree to allow them the liberty to choose their politics, if they prefer that there will be no use in having a trade union if their trade union is not able to follow the policy laid down by the Muslim League, they may not have any union at all. In the same way if the untouchables feel that if they are not allowed to make some provision for the education of their children and other amenities pertaining to their classes, they would rather not have it, what is the situation that you are creating thereby ? The situation that you are creating is you are compelling people not to have any union at all and I submit, therefore, that this is a provision which is fraught with great mischief.

Then, Sir, the second point that arises out of the provisions 4 to 20 is this. What is going to be the effect of this Bill on the stability of the trade union movement ? Supposing that some kind of trade union which could ultimately aspire to be free from the control of the master does grow up, is there any guarantee under the provisions contained in this Bill that that union will remain as a functioning union? So far as I have been able to study the provisions of this Bill that a union once registered will continue to enjoy that registration. Clause 10 is the most dangerous clause. That clause will always be hanging like a sword upon a union : Though registered, its life will always be in jeopardy and it can never be certain that while it has a legal existence today, it will not continue to have a legal existence tomorrow, because under the provisions of this clause its registration may be cancelled at any time provided certain circumstances happen, and once a registration is cancelled, the whole structure which might have been built up with enormous industry, with enormous energy, will singly have been washed away. Now, Sir, there is a further mischief, if I may say so, which is contained in this Bill. It is this that the cancellation of the registration of a union is left to a rival union or to an employer, which means that there will be mutual rivalry, mutual jealousy and a cut-throat competition, if I may say so, between the different trade union men in order to destroy a rival union. A trade union therefore which is once registered under this Bill, in order that it may enjoy a perpetual existence, shall have to show at all times that it had 51 per cent. membership of the total number of workers. Sir, I again ask

the question : Is it possible for any union to show that it will have 51 per cent. membership of the total number of workers employed ? It will be interesting. I believe, if I show to the House how trade union membership fluctuates from year to year and I give these figures which I have taken from the figures of Great Britain. In the year 1892 the total membership of trade unions was 1,576,000. In 1910 it was 2,565,000. In 1920 it was 8,346,000 but in 1934 it fell to 4,441,000. There was a drop in ten years of 50 per cent. of the membership of trade unions.

Take the figures of the particular industry. In agriculture in the year 1920 the total membership was 210,000. In 1932 it was only 33,000. It fell from 210,000 to 33,000. In the coal-mining industry in 1920 the membership was 1,115,000. In 1932 it fell to 554,000. In the metal industry the figures in 1920 were 1,172,000. In 1932 the membership was 527,000. In the building trade the number of members in 1920 was 563,000. In 1932 it fell to 275,000. In the transport and general labour the total membership was 1,685,000 in 1920 while in 1932 it fell to 660,000. Taking the membership of the trade union congress in 1920, the total membership was 6,505,000 while in 1932 it was only 3,613,000 members. Sir, if in a country like England, where trade unionism may be said to be like the breath of the nostrils to a workman, the trade union membership fluctuates by 50 per cent. within a decade, I cannot understand how any man can expect any body of organisers of trade unions in this country of ours to maintain on its rolls at all times a membership of 51 per cent. If the membership falls by I per cent., the union stands to have its registration cancelled. The whole show will have to be wound up. I ask is this a reasonable condition, is this a condition which could ensure the growth of the trade union movement ? If every trade union which is registered stands to have its registration cancelled and stands in fear of it from day to day, what prospect is there of trade unionism growing in this country ?

Then, Sir, another regrettable feature which is a matter of serious consideration. Under this Bill, a person who is given the right to have the registration of a union cancelled may not apply for the registration of his own union. I can quite understand the reasonableness of the proposal if the right to have the registration cancelled was given to members of a union who were in a position to get themselves registered by reason of the fact that they had a larger membership. I could quite understand that position, but a reference to clause 10 of the Bill will show that a person need not be in a position to have his own union registered, that is to say, he may not have at his command 51 per cent. membership of the members employed in the industry. All that is necessary for this mischief-monger is to prove that having regard to the roll of the employer and having regard to the roll of the union the percentage has

fallen below 50 per cent. As I said, under industrial conditions where work fluctuates, labour fluctuates, it is impossible to fulfil this condition.

Then, Sir, there is another provision to which I think it is necessary to draw the attention of the House. What is to happen to a union whose registration has been cancelled ? Can it again apply for registration ? The answer is No. Clause 54 of the Bill gives power to the Industrial Court to declare under certain circumstances that the union had forfeited its registration. It says :

" If in any proceeding under this Act, the Industrial Court finds that the registration of any union or the declaration of any union as a qualified union or as a representative union was obtained under a mistake, misrepresentation or fraud, or that such union has contravened any of the provisions of this Act, the Industrial Court may direct that the registration of such union or the declaration of such union as a qualified union or as a representative union shall be cancelled."

Now, turn to clause 8, which contains a direction to the Registrar as to what rules he has to observe in the matter of registration; the House will see that what I am stating is absolutely correct. Clause 8 reads thus : " On receipt of an application from a union for registration under section 7 and on payment of the fee prescribed, the Registrar shall hold such enquiry as he thinks fit and if he is satisfied that such union fulfils the conditions necessary for registration specified in section 7 and is not disqualified from registration under the Act" That is also one of the conditions prescribed by clause 8, that a union must not have been disqualified under clause 54. Now the question that I would like to ask is this. Why is it that there should be this perpetual disqualification ? I can quite agree that there may be a disqualification for a temporary period. It may be possible to argue that persons who have obtained a registration by reason of fraud, by reason of misrepresentation, should be on probation for some time. I can quite understand the reasonableness of a proposal of that sort. But I do not understand the reasonableness of a provision which says that because a man was guilty of fraud or misrepresentation, he should be perpetually debarred from even coming before the Registrar and obtaining the registration of his union. Sir, let me refer in this connection to the provisions which we have in the Government of India Act, 1935. We, the members of the House, have to face certain disqualifications which are enacted in the Government of India Act. We know that persons cannot stand for election because they suffer from disqualification, that certain persons even though they are elected cannot become members of the Legislature because they are disqualified. I was one of those who were about to be disqualified, but the Government, it is said, came to my rescue and managed to save my seat for me; otherwise, I would have been disqualified. But the point that I am seeking to make is this, that the

disqualifications contained in the Government of India Act are certainly not perpetual. Those disqualifications are temporary. Once the disqualification passes off by efflux of time the member becomes qualified to seek election and become a member of this House. If this is the principle that is embodied in the Government of India Act, if the disqualification of members who are supposed to be free from all moral taint, to have no kind of moral turpitude in them so that they may exercise their rights, their privileges and duties in an honest manner in this House, are not permanent, I ask why the disqualification of persons who are organising labour should be permanent. I see no answer to it. As a matter of fact, I would say that this provision really nullifies the decision of the Full Bench of the Calcutta High Court. I am sorry, as I came in a hurry, I am not in a position to lay my hands exactly on the report. But there is a case. It may be within the knowledge of many members, at any rate of those who are dabbling in labour politics, that in Calcutta when the Emergency Powers Act was brought into operation a certain union was declared to be illegal by the Registrar because it was managed by communists. That was perfectly legal so far as the Emergency Powers Act was concerned, but those gentlemen, the communists, who were in charge of the union were not going to be defeated in that way. They devised another plan and that plan was to present another application for registration under a new name. The Registrar who smelt a rat in it, because he found that the man whose registration was cancelled was the same man who brought this application, said, " I must wait and make an enquiry." So, he made an enquiry into the personnel and composition of the management of this new union which had brought forth the application for registration and found that the gentlemen whose union was cancelled by him were the same gentlemen who had brought this application for registration. He said, "You are the same gentlemen. I will not grant you registration." They went to the Calcutta High Court, and the Calcutta High Court held that it was none of the business of the Registrar to enquire into the personnel of the management. What all the Registrar was entitled to do was to examine the object for which the union was formed and to examine whether seven persons have signed the application, but beyond that he had no concern. That was the position under the old law, that is to say, that persons who were once disqualified could go and obtain registration without there being any hitch by the law placed in their way. This Bill puts a perpetual hindrance in the way of people who want to organise labour, simply because they happen to have committed some kind of misrepresentation or fraud. This is all that I really wanted to say on the provisions of this Bill.

Of course, it may be pointed out that this Bill introduces equality of treatment between the labourers and the employers, because, just as this Bill penalises the strike of workmen, it also penalises the lockout by employers. I do not think

that this position can be substantiated, because I do certainly find one or two cases where there is a differentiation made between the employer and the employee. For instance, I refer to the question of notice under clause 28. The employer is required to give notice for any change (1) in standing orders, (2) in regard to industrial matters mentioned in Schedule II. When you come to the employee, the employee is required to give notice of any change in the standing orders and in any industrial matters, not necessarily confined to Schedule II. That is certainly not an equality of position. With regard to the appearance, the employer is certainly not penalised if he does not appear. But the worker can be compulsorily represented if the union does not appear. If there is nobody there is the labour officer, who can represent labour and the agreement made after conciliation may bind labour also, although labour has repudiated the conciliation and was not prepared to have its interests represented by that officer. These are trifling things. Apart from this, what I am trying to urge is this. Sir, what we want is not equality, what we want is equity. What I want to urge before this House is this. Equality is not necessarily equity. (Interruption). I am going to prove it. In order that it may produce equity in society, in order that it may produce justice in society, different people have to be treated unequally. Why go far ? Take the case of income-tax. I am a student of finance and so this illustration comes to my mind readily. Why do we have progressive income-tax ? Why don't we tax all people alike ? The reason why we tax the rich at a higher rate and the poor at a lower rate is because the taxable capacity of the two is different. In a case like that equality would produce the greatest inequity. Take an ordinary case. Suppose, in a household, there are several persons of whom one is sick. In order that the sick person may get out of sickness and in order that he may become better, we give chicken soup to him, but we do not give chicken soup to the others. No one would blame the mother of the household if she gave chicken soup to the sick member and denied it to the other adult members who are enjoying robust health. What we want is equity. This equity cannot be produced, if we propose to treat the strong and the weak, the rich and the poor, the ignorant and the intelligent on the same footing. If my honourable friend wishes to treat the two classes equitably, then this Bill will not suffice. He will have to introduce some other provisions into the Bill and I would like to ask whether he is prepared to introduce such provisions in the Bill.

What is happening today in this industry of ours ? I am sorry I have to make a plain breast of what I feel on this occasion. We have mills in Bombay City managed by Parsis. There are mills there managed by Gujaratis. There are mills in Bombay which are managed by Jews or by Europeans. I visited all these mills in my younger days when some members of my family were

working there. I used to carry their bread to the mills where they were working. Recently also I visited some of the mills though not often times. The most surprising thing about all these mills is that they have been made the heaven for the cousins of the Managers. Hundreds of useless people are employed in higher grades simply because they are related to the managing agents in some way. You go to a Parsi mill, you will see hundreds of Parsis employed whether they are wanted or not. Go to a mill managed by Gujaratis. You will see hundreds of Gujaratis employed whether they are wanted or not. Go to a mill managed by Jews. You will see hundreds of Jews employed, whether they are wanted or not. The best part of the earning of the workers are taken away by the managers in order to feed these people who are employed in the mills, whether they are efficient or not, or whether they are wanted or not. All these people who are controlling the industry float the capital and bloat it up by all sorts of paper transactions. When the worker says that he gets less wages, the man controlling the industry says. " It is my capital ". All this is bogus capital, stock exchange capital, bolstered up by speculators. A good part of the earning of the industry is swallowed by these people. From the little balance that is left, the workers are asked to. eke out their existence, if the Honourable the Prime Minister wants to introduce equity, let him make the workers' wages the first charge on the profits of industry. I do not understand why the mill owners or, for the matter of that, any owner of any industry, should not be required by law to present his budget annually. Government is required to present its budget every year; annually we get a budget of Government in which Government say how many Ministers are employed, how many chaprasis are allowed to the Ministers, how many superintendents are there in departments, how many clerks, this, that and the other. This House is in a position to understand whether the establishment is excessive or not. This House gets to know whether the money is spent properly or not. Why is it that a mill owner or, for the matter of that, the owner of an industry, who gets his earning, not entirely by his capital but also by the sweat of another man, be not compelled to give the details of his management ? This is a very fair demand to make. The advantage would be this. Once a budget of that kind is presented by the owner of an industry, the workers would be in a position to realise and scrutinise whether the balance that is left to be divisible among the labourers is fair or whether the employer has taken an undue portion of the total profit. What is the use of having a conciliation board and asking the employers to produce their account books when the employee is not placed in a position to scrutinise what is really the state of affairs ? If the procedure I suggest is adopted, I am sure about it that there will be less labour troubles, the conciliation would be more effective and there will be more industrial peace. If the Honourable the Prime

Minister wants to treat labour and capital on a footing of equality in the sense in which I have suggested, namely, that there should be equity, then there is no basis for equity in the provisions of this Bill. Secondly, there is no basis for equality between capital and labour because the Government in. any dispute is always on the side of employers. This is clear from the use of the police Government makes in strikes. The police force is maintained out of public fund, out of the taxes we all bear. It is intended for the benefit of all. Surely, no Government is entitled to use this police force merely because a strike by the workers results in a breach of peace. What is further necessary is to show that the breach of peace, has been caused by one particular section of the industry. If the breach of peace is caused by some unreasonable demand made by labour, you may be justified in using police force against them. If on the other hand the breach of peace is broken by something which has been done by the employer which does not stand to reason and which is contrary to justice and equity, then Government have no right to use the police force against the workers. Real equality between employers and employees can be brought about only by incorporating these two provisions. The employer must be compelled to disclose his budget and the Government must cease to use the police force against the workers merely because there is breach of peace. Without this there can be no equality between capital and labour as to bargaining power. Will you doit? If you do this, you will lose case with the employers. If you don't, you cannot be the friend of labour. The Bill as it is, I am sure about it, should not be passed. It only handicaps labour. Labour may not now know what this Bill does. But when the Bill comes into operation and the labourer stands face to face with the Bill he will say that this Bill is bad, bloody and a brutal Bill. Sir I cannot be a party to it. (Applause).

44

ON DISTURBANCES ENQUIRY COMMITTEE'S REPORT

Dr. B. R. Ambedkar (Bombay City): I will try to finish within five minutes because I have not much to say. Mr. Speaker, Sir, if I rise to speak on this cut motion it is not because I think I am called upon to meet what the Committee has been pleased to say about myself. There is neither the time nor, in my judgement, any necessity for me to advance any pleading in respect of the position that I took with regard to this strike and I will, therefore, leave that matter aside. If I rise to speak, it is because I think that the speeches which have been delivered by the two honourable members of this House who preceded me gave me the impression that they would result in side-tracking the attention from the principal issues with which we are concerned as a result of

this report. In my judgement, there are three questions that we have to consider—certainly two. It is to ask these three questions to the Home Minister that I have risen to speak. I accept for what it is worth the finding of this Committee that there were disturbances, for the sake of argument.

Mr. Jamnadas M. Mehta: They were not findings but they were found for the Committee.

Dr. B. R. Ambedkar: Whatever it may be, what the Committee has reported is this and it is reported in very definite terms. Paragraph 84 says :—

"The attitude and actions of the crowd were solely responsible for the firing. We are of opinion that the ultimate responsibility for the disturbance at the Elphinstone Mill, which resulted in firing and consequent casualties, must rest on the members of the Council of Action, who, by their intensive propaganda, invited the illiterate workers to resort to violence to make the strike a success.".

As I said, I am not going to examine the correctness of this finding. I think if one wanted to examine the correctness of the finding, one could say a great deal, because speaking for myself I certainly find that the evidence on which this finding has been based and the number of the speeches alleged to have been delivered by the persons who were members of the Council of Action and they have all been given in the body of this report practically from page 10 onwards, do not in my judgement support this finding. As I stated, I am taking this as a finding of fact for the sake of argument and the question that I am going to ask to the Honourable the Home Minister is this : Does he believe that this report is true? If he says that this report is true, is he prepared to' prosecute the members of the Council of Action for having aided and abetted this violence ? Speaking for myself, inasmuch as I was connected with this Council of Action, I am prepared to take my trial. Let any man who has the courage, who has the confidence, who believes in this evidence, come forward and prosecute me. I am prepared to take my trial and suffer what punishment the law might inflict upon me. That is my first question. The second question that I am going to ask the Honourable the Home Minister is this, and that is again based upon a finding of the Enquiry Committee which, as I said, I am going to accept for the sake of argument. I thought that the principal question with which this Committee was concerned was the question of justification of the firing. The Committee has stated that the firing was justified, that there were reasons for the firing. The Committee, I believe, has also reported that without firing the violence could not have been curbed, in other words, that the firing was just sufficient for the purpose. As I said, I am taking that finding as true for the purpose of my argument. I am also asking therefore another question to the Honourable the Home Minister. Is he prepared to prosecute the police officers who indulged in this firing in an ordinary court of law and get the finding given

by this Committee sustained by a Judge and a Jury ? Sir, I like to point out to this House that so far as the law is concerned, there is no difference between an ordinary citizen and a police officer or a military officer, and I would like to read for the benefit of the House a short paragraph from a very classical document which I am sure my honourable friend the Home Minister knows, namely, the Report of the Featherstone Riots Committee. In one passage it says:—

" Officers and soldiers are under no special privileges and subject to no special responsibility as regards the principle of the law. A soldier for the purpose of establishing civil order is only a citizen armed in a particular manner. He cannot, because he is a soldier, excuse himself if, without necessity, he takes human life. The duty of magistrates and police officers to summon or abstain from summoning the assistance of the military depends in like manner in this case. A soldier can only act by using his arms. The weapons he carries are deadly. They cannot be employed at all without danger to life and limb, and in these days of improved rites and perfected ammunition without some risk and endangering distant and possibly innocent bystanders. To call for assistance against rioters from those who can only interpose under such grave conditions ought, of course, to be the last expedient of the civil authority." And so far as the law of this country is concerned, this is the law. To put it very briefly, to put it in the language of that great writer on constitutional law Professor Dicey, the law is this that if a police officer or if a military officer does not obey the command of his officer when he is told to fire, he may be hanged by a court martial and if he obeys it and kills an innocent man, he will be hanged by a judge and a jury. His case must stand by the necessity of the circumstances. His case must stand on whether he has used excess of force. What I want to argue is this. Here is a committee which has justified the conduct of the police. The only thing that I am asking my honourable friend is this: If he believes in this document which has been written by three able and honourable men, if he has confidence in it, why does he not sanction prosecution against those people if that is true ? If there is a jury which can accept that there was a necessity and if there is a jury which can accept that there was no excess, well and good. Let us have a verdict of a judge and jury, and I put it this way that if he does not do this, if he does not prosecute the members of the Council of Action, if he does not prosecute the police officers, then this report has no greater value than a fiction or a novel written by the Three Tailors of Tooley Street. (Laughter).

And, Sir, there is the third question I want to ask, namely, and this is for information. Sir, I am informed and very reliably informed and I put this information to the Honourable the Home Minister that the Manager of the

Spring Mill in the vicinity of which the firing took place at 6-30 or so on that day sent a sum of Rs. 200 to be distributed as reward among the police officers who took part in this firing. I do not know whether the Honourable the Home Minister is aware of this fact, but I know this is a fact and if he calls for information from his department. I am sure he will know that this is a fact. Now, Sir, if this is a fact that Rs. 200 were sent by the Manager of the Spring Mill to the Government with a specific direction that the amount was to be distributed as rewards among the police officers who took part in the riot or in the firing on that particular day, that took place in the vicinity of the mill, Sir, I like to ask whether it is not justifiable to say that the firing was resorted to not because there was violence but because the Mill Manager told the police officers to do their job thoroughly. This is a very scandalous state of affairs, and I want the Honourable the Home Minister to take this fact very seriously, because if this is a fact, this police force is a police force maintained by the State not to do justice between classes but it is a police force to side with hirelings and side with assassins to be used by the capitalist class for the purpose of putting down the agitation of workers. Sir, this affair fills me with horror, and it reminds me of what was told by a very able civilian in the course of his evidence before the Joint Parliamentary Committee. I refer to the evidence of the late Sir, Edward Thompson, who was for some time Governor of the Punjab and for some time a member of the Viceroy's Executive Council. On his retirement he started an organisation in England in order to support the cause of Indian home rule. As everybody in this House knows, at the time when the Round Table Conference met, the civilians who had gone back—from here were divided into two groups—one group opposed to Indian home rule, and the other supporting Indian home rule. Sir Edward Thompson was one of those who led the group in support of the Indian claim. As a member of that group, he came before the Joint Parliamentary Committee to give evidence and to support his point of view, namely, as to why India should be given home rule. We were all very pleased that at any rate a section of the Indian civilians should come forward honestly and wholeheartedly to support the Indian cause. But I frankly say that I was horrified by the argument that he advanced. What was the argument that he advanced ? The argument that he advanced was this. He said, "I am an Irishman. I live in Southern Ireland. I have witnessed the rebellion that took place in Southern Ireland during 1916 and onwards ". The one thing that convinced him, he said, in favour of Irish home rule was this: So long as the rebellion was going on, no Englishman could shoot an Irishman, however violent his action was, because if an Englishman shot an Irishman, the whole Irish country went up in arms. He said that as soon as home rule was granted, it was possible for Cosgrave to shoot Irishmen, and nobody rose in rebellion

against it. He said that one advantage that the Englishman would have from home rule to India would be that the Indian Ministers would be able to shoot Indians without any qualms. This is exactly what is happening. This is not the only occasion when disturbances have taken place.

The Honourable the Speaker: I would remind the honourable member of the time-limit.

Dr. B. R. Ambedkar: I am much obliged to you. Sir; I will finish in a minute.

As I said, this is not the only occasion when disturbances have taken place. If my honourable friend will search the official files, he will find that there have been plenty of occasions prior to this when the disturbances were far greater. Take a single illustration—the occasion when the Prince of Wales visited this country. What was the magnitude of the disturbances that took place then ? Take the riots that took place in 1928-29; what was the magnitude of the disturbances that took place then ? Disturbances are no doubt very unfortunate, but they could never be otherwise. The only question is this : Whether, in maintaining peace and order, we shall not have regard for freedom and for liberty. And if home rule means nothing else—as I am thinking, it can mean nothing else—than that our own Minister can shoot our own people, and the rest of us merely laugh at the whole show or rise to support him because he happens to belong to a particular party, then I say home rule has been a curse and not a benefit to all India. (Applause)

45

ON PARTICIPATION IN THE WAR : 1

Dr. B. R. Ambedkar : Sir, I rise on a point of order. My point of order relates to the last part of the resolution which reads as follows :—

" This Assembly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India." Sir, I rely on rule 75 of the Bombay Legislative Assembly Rules which deals with the form and contents of resolutions. The rule reads us under : —

" Subject to the restrictions contained in these Rules, a resolution may be moved on a matter of general public interest:

Provided that no resolution shall be admissible which does not comply with the following conditions, namely:—

(a) it shall be clearly and precisely expressed and shall raise one definite issue..... ".

My submission is that the last part of the resolution is not only not definite, but is certainly most ambiguous. The part of the resolution which I refer to says that

" the situation in India has not been rightly understood by His Majesty's Government ". My submission is that the House is entitled to know in what respect the Government of India has not rightly understood the situation in India. In that respect this part of the resolution is ambiguous. One of the fundamental principles which govern all decisions of the House is that the House ought not to leave the interpretation of any part of the decision that it takes to anybody outside it. The House ought definitely to say what it decides, and on that point I rely upon a precedent which has been referred to in the Digest of Rulings of the Presidents, Bombay Legislative Council, at page 148. Ruling No. 24 reads as follows :—-

" A resolution must be definite and not ambiguous. Neither the Council nor the Government ought to be a party to an ambiguous resolution which makes its meaning not quite clear."

I made a reference to Volume IV (1921), page 772 in connection with this ruling, and I find that this ruling arose out of an amendment moved by the honourable member Sir Dhanjishah Cooper to a resolution which referred to the distribution of irrigation water, and his amendment suggested certain remedies to be applied " as far as practicable ". A point of order was raised that this was an ambiguous amendment and it was disallowed. My submission is that the case I am referring to, so far as this resolution is concerned, is governed by this ruling and, therefore, should be declared out of order.

The Honourable Mr. B. G. Kher: I submit that the rule to which my honourable friend referred has no application at all here. The rule only says that the resolution should be clearly and precisely expressed. My resolution says that " this Assembly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India." The question, therefore, is and the definite issue is: does the statement which has been made on His Majesty's behalf correctly represent the situation in India ? That is the definite and precise issue, and there is no vagueness in it. I submit further that it is one definite issue as is contemplated by Rule 75(a). Therefore, the objection raised by the honourable member has no application here. I can quite understand the ruling given about " as far as practicable ", because that may mean anything. Here we are referring to the statement—that statement is not an unknown matter, that statement is before the House—and—

Dr. B. R. Ambedkar: I might invite the attention of the Honourable the Prime Minister to the fact that the wording is that " the situation in India has not been rightly understood "; and my submission is that the House is entitled to know in what respect the Government of India has not rightly understood the situation.

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Dr. B. R. Ambedkar (Bombay City): Sir, I beg to move the following four amendments. My first amendment is this :

The Honourable the Speaker: I am taking it as one amendment.

Dr. B. R. Ambedkar: Sir, I beg to move— Delete the words—

" and have further in complete disregard of Indian opinion passed laws and adopted measures curtailing the powers and activities of the Provincial Governments ".

The Honourable Mr. K. M. Munshi: Sir, on a point of order, with regard to your last ruling that the four amendments of the honourable member Dr. Ambedkar should be treated as one amendment. It may be possible for the House to accept one part of this amendment and not the others. Then, difficulty will be created if it is taken as one.

The Honourable the Speaker: Even though it is taken as one amendment, when putting it to the vote it may be divided in two parts. If that is the desire of the House, I shall certainly do so.

Dr. B. R. Ambedkar: Further—

After the words " entitled to frame her own constitution " add the following:—

" and that the British Government will agree to give effect to such constitution on being satisfied through the representatives appointed by the minor communities, that the constitution so framed safeguards the life and liberty of these communities ". After the words " governance of India " add the following :

"it being premised that such action shall not be in derogation of the fundamental right of the said communities to have a voice through their accredited representatives in the machinery established for the governance of the country ".

Delete the whole portion beginning with "including arrangements" and ending with " in regard to India ". Question proposed.

The Honourable the Speaker: The resolution as it is sought to be amended will read thus :—

" This Assembly regrets that the British Government have made India a participant in the War between Great Britain and Germany without the consent of the people of India. This Assembly recommends to the Government to convey to the Government of India and through them to the British Government that in consonance with the avowed aims of the present war, it is essential in order to secure the co-operation of the Indian people that the principles of democracy be applied to India and her policy be guided by her people ; and that India should be regarded as an independent nation entitled to frame her own constitution and that the British Government will agree to give effect to such constitution on being satisfied through the representatives appointed by

the minor communities, that the constitution so framed safeguards the life and liberty of these communities, and further that suitable action should be taken in so far as it is possible in the immediate present to give effect to that principle in regard to present governance of India, it being premised that such action shall not be in derogation of the fundamental right of the said communities to have a voice through their accredited representatives in the machinery established for the governance of the country.".

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[*]*Dr. B. R. Ambedkar:* Sir, I rise to a point of order. My submission is that this amendment is out of order, and I again rely upon sub-clause (c<) of rule 75 at page 20. Sub-clause *(a)* says that a resolution shall be clearly and precisely expressed and shall raise one definite issue. I emphasise the words " one definite issue ". My submission is that if this amendment becomes a part of the resolution, then the whole resolution will offend against sub-clause *(a)* of rule 75, because in that event the resolution will be covering more than one definite issue. Although the resolution, as it is, deals with, as has been pointed out by speakers before me, four or five different matters, it might be conceded that all these four or five different matters arise out of one issue and that issue is with regard to the war policy and the declaration demanded by this country; but the question raised by this amendment, which relates to a matter of confidence in the Ministry, I submit, is a definite, distinct and separate issue and cannot be validly held to be a part of the resolution so as to be in conformity with the provisions of sub-clause *(a)* of rule 75. Sir, I will also invite your attention to the ruling given on this point which is reported at the page 148 and which is No. 23. It is as follows:—

"A resolution must not suffer from the vice of involving two definite issues totally different and distinct from each other." This is a ruling, which is reported from Volume II of 1921, page 1425. In that case, a resolution was moved with regard to the women's franchise, and on a point of order it was contended that although the resolution was one it raised two definite issues. One was the right of women to vote and the other was the right of women to sit in the House, and the President at that time ruled that as the resolution involved two definite issues it was out of order. My submission is that for the same reason this amendment, if adopted, would make the resolution out of order.

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Dr. B. R. Ambedkar: No. The question of resignation of the Ministry is a matter for the party. It is not a matter for the House. It is just a matter for the party whether they should stick to office or should not. It would be quite another matter if the Ministry state that the people of this country should not participate

in the war. On that point the House can express its opinion. My submission is that the suggestion made by my honourable friend is not before the House—*1* do not know whether such an amendment to delete the words "while recording its fullest confidence in the Ministry " is coming or not. I am speaking on the amendment as it is now, and my submission is that in the terms in which the amendment stands now, it offends against sub-clause *(a)* of Rule 75. I will make my submission when the other amendment is before the House.

The Honourable the Speaker: The point of order was that by this amendment more issues than one are sought to be raised in the resolution as it originally stands. Therefore, the honourable member's objection is not restricted to those words only " while recording its fullest confidence in the Ministry ".

Dr. B. R. Ambedkar: That is what I stated. It is to the whole of the thing.

46
ON PARTICIPATION IN THE WAR: 2

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, at the outset I must mention that I am somewhat chilled at the decision that you have taken that you will not allow more than 45 minutes for any particular member who happens to be in the position of a leader. You also repeated the same just now; and having regard to the notes that I have before me, I am afraid that I must begin by asking your indulgence for some extension of time. I might tell you that my request is not of an extraordinary character. There is a precedent. We all know the story in *Maha-bharata* about king Yayati. He happened to marry in his old age a young girl by name Devyani. After marriage he found that there was so much discrepancy between the ages of the couple that unless some period was added to his youthful life, the marriage would be of no use at all. Turning round he began to find out whether there was any charitable soul who would consent to deduct a part of his life and add the period to his own. He could find no one. Fortunately, his son Pururava who was a very dutiful son, much younger and who needed all his youth to himself, came forward and offered a part of his life to that of his father. Sir, I would assure you that those who are sitting behind me— and, if I may say, my relations with them are those of sons and father— have all agreed to have some deduction made from their time in order that that may be added to mine. But I know that unless you bless the bargain and sanction it, the addition cannot be made. It may be that this addition may not be necessary, but should the events turn out that the addition is necessary, I will proceed in the hope that you will sanction it ultimately.

Sir, turning to the resolution which the Honourable the Prime Minister has moved, I cannot help saying that this resolution to my mind, seems to be

improper and inopportune. This resolution asks the House to demand a certain declaration, and further proceeds to invite the House to sanction a certain procedure in case those demands are not met. First of all, I want to know who made these demands ? Obviously, the demands which have been made to His Excellency the Viceroy were not made by this House.

The Honourable the Prime Minister did not think this House to be a worthwhile place for him to table the demands in the name of the country and to have the backing of this House before they were sent to His Excellency the Viceroy. The demands, as we know now, were presented by what the Honourable the Prime Minister will call his "High Command" and which I say is nothing but a vigilance committee appointed to check the bold actions of the ministers. (Laughter). My submission is, that this was the proper place where the demands ought to have been placed. He did not choose to do so. If they were tabled they were passed at the back of this House by somebody unknown to the constitution and unrecognised by this House, and after having done that, he now quietly comes to the House and says : " Well, the thing has been bungled; come to our rescue." I submit that this is a most insulting procedure.

The second thing which I have to say about this resolution is, that this resolution asks for a declaration in certain terms. Now, Sir, it seems to me that a certain kind of declaration has been made by His Excellency the Viceroy. That declaration was known to the people of India on the 18th of this month; some seven clear days have now elapsed after that. Now all that the House, in all propriety, could do is to express its opinion that that declaration is not a satisfactory declaration; but the resolution does not do that. Although there is a declaration; the Honourable the Prime Minister has worded his resolution without in any way expressing whether that declaration is acceptable or not, or whether some other declaration ought to be made or not. The whole thing seems to sound trivial. Sir, I do not wish to proceed in that strain, because my honourable friend the Prime Minister has requested the members of the Opposition to treat this resolution as though it was a non-contentious matter. But I would say that it is very seldom that a dog gets a chance to eat a dog, and such a resolution is one which shows that a dog can eat a dog. However, I am prepared to respond to the invitation of the Honourable the Prime Minister and treat the resolution and the amendments which have been tabled in a noncontentious manner.

Sir, as I am going to make some comments upon the resolution as such, and also upon the amendments, I would like at the outset to show to the House in what respect I agree with the resolution. In so far as the resolution says that India has been made a participant in the war between Great Britain and Germany without the consent of the people of India, I am in wholehearted

agreement with it. In fact, I would have gone a step further because the position is really very anomalous. Here we are tied down to the chariot wheel of the British Cabinet. The British Cabinet controls the foreign policy of the Empire. In the making of the foreign policy this country has no voice. In the declaration of war this country has no voice. In the settling of peace terms this country has no voice. Probably an invitation might be extended to some members from the public to go to Versailles or to some other place, where the peace is signed, in order to sign their names on the document. Beyond that, this country, I am sure, will not have any place. That is certainly a most anomalous position. I say that India has a greater right to participate in the foreign policy of Great Britain, a far greater right than the Dominions have. As the Honourable the Prime Minister referred in the course of his speech, under the Statute of Westminister it is open to a Dominion to declare herself to be neutral and to exempt herself from the consequences of a war for the outbreak of which she was not responsible. Unfortunately, we have at present no Dominion Status. We have no right to declare ourselves to be neutral. Without our will and without our consent we are dragged in this slaughter; and I say that, if this is the case, we have a far greater right than any Dominion possesses in order to insist that we shall be consulted all along. Therefore, so far as that portion of the resolution is concerned, I give my full support.

There is one other matter also to which I would like to make a brief reference. Although this country has been involved in the war without her consent, as the resolution rightly says, this country from the standpoint of defence, is in a most defenceless condition. Supposing the question of defence of this country arose, then where is the army? Where is the navy ? Where are the aeroplanes that can protect this country ? As a member of the Round Table Conference, I remember we fought for one principle, and that principle was that the defence of India should be recognised as the responsibility of Great Britain and Indians should be taught to defend themselves. I am sorry to say that so far as I have been able to observe the defence policy of the Government of India, they have not taken any satisfactory measures along that line. I see nothing in their policy so far as the fulfilment of that principle is concerned. Therefore, I think that also is a legitimate part of the complaint which India could make. Now these are the points on which I agree with the Government; but I am sorry to say that there my agreement ends.

Sir, as you know, I have tabled in all four amendments. They are three, but they are in fact four. I propose to take together the two amendments which deal with the rights of the minorities, and I will take the other amendments separately. I do not propose to read the amendments again to the House, because I want to economise time. The House fully knows what the

amendments are. The Honourable the Prime Minister ended by drawing the attention of the House to the principle embodied in the constitution of the United States. He read a passage from the constitution of the United States which referred to democracy, to life and liberty and to pursuit of happiness. And he commended that those of us who are sitting on the Opposition benches should have a regard for that ancient and very human document which embodied the principles of democracy. Sir, I would on my part, take the liberty to remind the Honourable the Prime Minister of the condition of affairs relating to South America. He referred to North America, and I shall be referring to South America—they are countries which are very near each other. My honourable friend the Prime Minister, I am sure, will recall the fact that when the Spanish American colonies such as Brazil and others separated from the Spanish empire, they also thought of framing their own constitutions. They did not know how to frame their own constitutions. Consequently, they sought the assistance of a man whom I am sure the Honourable the Prime Minister is familiar with. What they did was this—they referred the matter to Jeremy Bentham. Jeremy Bentham must be known to every lawyer, if not to the outside world. Jeremy Bentham was a great legislator; he was a man who indulged in formularies; he was a man who indulged in symmetrical classification of things; he wanted to reform the English law on the basis of pure rationalism. The South American colonies thought that a man who believed in nothing but applying reason and who believed in doing things a priori was a proper person who would be asked to frame a constitution for themselves. They sent emissaries with briefs, I believe, marked, as they usually are for counsel, to draft the constitution. There were innumerable colonies in South America, all spilt out of the old Spanish empire. Jeremy Bentham jumped at the opportunity of drafting constitutions for these new countries in South America. He took great pains and framed the most elaborate documents. I see the Prime Minister laughing, because he knows the facts. And, Sir, they were shipped all these documents, constitutional documents framed by Jeremy Bentham, were shipped over to South America, for the protection of the life and liberty of the people and for the improvement, if I may say so, of the democratic principle. When they went there, they were tried by the South American people for a few years. And afterwards every constitution that was framed by Jeremy Bentham broke to pieces, and they did not know what to do with the surplus copies that had arrived; and all the South American people decided that they should be burnt publicly.

Sir, the point that I want to emphasise is this, that a constitution, like a suit, must fit. A constitution which does not fit is no constitution—it cannot be a constitution. For instance, the coat which the Honourable the Home Minister, with his slim body, is wearing could not fit on the corpulent structure that I carry.

(Laughter). Could it ? Would a suit made for a man with a hunch-back fit a normal man's back ? (Laughter). Can a shoe which fits a man who can place his feet firmly and straight on the ground fit a man who has a crooked leg? It cannot. Therefore, in talking about democracy, we must talk about fitting theories to facts. Now, the point that I am going to elaborate is this : Would the principle of democracy suit the people of India ? My honourable friend the Prime Minister has not enlightened us by enunciating what he regards as the principles of democracy. But I take of that what he means by democracy is majority rule, because unless we all accept majority rule as the fundamental working principle, there can be no political democracy. Obviously that is the root, that is the basis, that is the line from which we must proceed to discuss this question.

Now, Sir, I think everybody will agree with one observation that the Leader of the Opposition made, namely, that in this country, the facts being what they are, there is one thing which is unalterable; and that one thing which is unalterable is this, that the Hindus will remain in a majority, and the Muslims and the Scheduled Castes will remain in a minority, that, I submit, is an incontrovertible fact, a fact which whether we believe in one thing or other, we must all accept. Now the question, to my mind, is a very simple question, and I am going to deal with it purely from the standpoint of what are called the untouchable people of this country. To begin with, I will ask the House to note the relative position that we shall occupy under this democracy. Under this democracy which the Prime Minister wishes to be established in this country one thing, as I said, will be unalterable, namely, that there will be a Hindu majority, and, scattered all throughout this land, scattered all throughout every village there will be a small appendix, if I may use that expression a few clusters of huts, a few mud-houses of people who are called untouchables. In every village you will have in juxtaposition a colony consisting of Hindus, and a Maharwada or a Chambharwada or a Bhangiwada or whatever you like to call it attached to that colony. That will be the unalterable fact.

Now, my honourable friend asks me to submit to democracy. Well, I think he will allow me to say that my answer to this question would depend upon how this majority behaves towards me. Is this majority a tolerant majority ? Does this majority recognise equality, liberty and fraternity? Will this majority permit me to live, to breathe, and to grow ?

The Honourable Mr. B. G. Kher: Of course, it will.

Dr. B. R. Ambedkar: What is the attitude of the majority? That is the only question that will have to be considered. My honourable friend said " Yes ". But let us look to the facts. I am not going to travel into past and ancient history; I propose to begin with the year 1929. The House knows that in the year 1929

the Bombay Legislative Council, by a resolution, appointed a committee to enquire into the grievances of what are called the" Depressed Classes and the Aboriginal Tribes. That committee was presided over by an officer, named Mr. Starte, who was in charge of the criminal tribes. I was a member of that committee; my colleague, Dr. Solanki, was a member; the rest were Hindus. I would mention particularly one person, who happened to be a member of this committee, and that was Mr. Thakkar, because I know that my honourable friend the Prime Minister will far more readily accept the testimony of Dr. Thakkar than of myself. Now, Sir, what was the attitude of the majority of the Hindus towards the depressed classes in the year 1928 ? I will just take your permission to read one paragraph from this report. Para. 102 of this report says:

"Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.

The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land and boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence, sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has

bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street."

That was the condition in 1928. The question I should like to ask is this: Has there been any change since 1928 ? Now, Sir, so far as evidence is available to me, I have no hesitation in saying that the situation has not only not changed, but has worsened. I will give a few illustrations in order to support my contention. The first thing I would refer to is the election of 1932 that took place to the Legislative Council. As my honourable friend the Prime Minister would recall, in 1932 the Congress boycotted the legislature. They refused to fight the elections. Now, Sir, the Congress in 1932—1 stand to be corrected if the date is wrong; I quote it from memory—

An Honourable Member: It was 1930.

Dr. B. R. Ambedkar: 1930; the Congress in 1930 adopted various devices to scare away people, to persuade people not to participate in the elections. Sir, I should like to remind the House that that was the year in which the civil disobedience movement had also begun. And, if I mistake not, according to Congressmen, that is a momentous year, because it was the year in which the Dandi March took place. Sir, what were the slogans that were used by Congressmen in 1930 in order to prevent the people from joining the legislature ? One slogan used by these people was this, so far as I remember: Council may jana haram hay. But that was not all. The other slogan was this : Council may kon jayaga ? Dhed jayaga; Chamar jayaga. These were the slogans that Congressmen had used. (Interruption). Please. If my honourable friends want evidence, I will produce unimpeachable evidence. And I may say in this House that the slogan was so insulting that even the *Times of India* felt it necessary to write an editorial about it. Now, Sir, the point that I was illustrating was this: that Hindus, even of the Congress persuation,—who say that they have forgotten caste, who say that they have forgotten religion, who say that they have forgotten untouchability—, Hindus even of the Congress persuasion used that slogan. If, Sir, the pick of the nation as I see here, the best informed, the most enlightened part of the Hindu community, is capable of expressing this kind of abomination towards a community so helpless, so downtrodden, what can you expect from the orthodox to whom the law of Manu is far greater than the law passed by my honourable friend the Prime Minister ?

Sir, let me take another case. I am taking mostly cases from Gujarat, for a very deliberate reason, because I am told that that is the most enlightened part of our presidency. The instance I am speaking of now comes from a village called Kavita in Dholka taluka in the Ahmedabad district. Let us all be particular about it. In this case, the facts were these. On a certain day, a certain Brahmin

of the village had assaulted certain members of the untouchable community resident in Kavita. My honourable friend may note that these facts are taken from the *Harijan,* the last word on it.

The Honourable Mr. B. G. Kher: I had been to that place; I know the incident. The honourable member need not quote it.

Dr. B. R. Ambedkar: The facts were these. A certain Brahmin assaulted certain members of the untouchable community in that village. Thinking in their impudence, if I may say so, that it was possible f*or* these untouchables to have a Brahmin prosecuted and punished, they *took* it into their heads to go to the District Police to lodge a complaint against the assailant. In the meantime, what had happened was this. On the day on which the male members of the untouchable quarters had gone out, an invasion of the quarters of these untouchables took place by caste Hindus of the village. Their houses were demolished, their roofs were thrown out. Finding that the male members were not present to receive blows, all these gentlemen lay in wait till evening thinking that these people would return at night. Some women who had come to know their plan sneaked out of the village and met the male members half way at night and told them that it was most dangerous to come to the village, because their life was not safe. These people spent the night outside the village and did not return. The next day, they came back in a scattered manner without being noticed, and managed to come to the village. They found that all their huts were demolished. Subsequently, they came to know that the village had declared a boycott. They were not allowed to purchase anything from the village Bania. Not only that, the villagers went further, purchased tins of kerosene oil and poured it into the watering place from where these people used to get their water. Then, they felt that something ought to be done. They thought, ill-advised as they were, they should have recourse to law. They went again and lodged a complaint. Some Congress friends of theirs intervened. What did they do ? Did they help these poor untouchables to vindicate their rights ? No. They persuaded them to withdraw the complaint and submit quietly. The distressing part of the whole business is here. What wrong have these untouchables of Kavita done ? Why were they persecuted in this manner ? For no other reason but this. The untouchables of Kavita persisted in sending four of their children and admitting them in the school where they should be admitted according to the orders of Government.

The next case to which I am coming is the case of a Bhangi boy who had the misfortune to be appointed a talati. His name is Parmar Kalidas Shivram. With your indulgence, I propose to read what Parmar Kalidas Shivram said at a public meeting in Bombay under the chairmanship of Mr. Indulal Yagnik at which I was also present. I was tremendously moved on hearing the story. I

asked him to give me in writing the whole thing. I have merely translated what he has given to me in writing. This is the story :

" I passed the vernacular final examination in 1933. I have studied English up to the 4th Standard. I applied to the Schools Committee of the Bombay Municipality for employment as a teacher but I failed as there was no vacancy. Then I applied to the Backward Class Officer, Ahmedabad, for the job of a Talati and I succeeded. On the 19th February 1938, I was appointed a Talati in the office of the Mamlatdar of the Borsad taluka in the Kaira district.

Although my family originally came from Gujarat I had never been in Gujarat before. This was my first occasion to go there. Similarly, I did not know that untouchability would be observed in Government offices. Besides, in my application the fact of my being a Harijan was mentioned, and so I expected that my colleagues in the office would know before hand who I was. That being so, I was surprised to find the attitude of the clerk in the Mamlatdar's office when I presented myself to take charge of the post of Talati.

The Karkun contemptuously asked, " Who are you ?" I replied, " Sir, I am a Harijan." He said, " Go away, stand at a distance. How dare you stand so near me. You are in office, if you were outside I would have given you six kicks. What is this audacity to come here for service! " Thereafter he asked me to drop on the ground my certificate and the order of appointment as Talati. He then picked them up.

While I was working in the Mamlatdar's office at Borsad I experienced great difficulty in the matter of getting water to drink. In the verandah of the office there were kept cans containing drinking water. There was a waterman in charge of these water cans. His duty was to pour out water to clerks in office whenever they needed it. In the absence of the waterman they could themselves take water out of the cans and drink it. That was impossible in my case. I could not touch the cans for my touch would pollute the water. I had, therefore, to depend upon the mercy of the waterman. For my use there was kept a small rusty pot. No one would touch it or wash it except myself. It was in this tin that the waterman would dole out water to me. I could get water only if the waterman was present. This waterman did not like the idea of supplying me with water. Seeing that I was coming for it he would manage to slip away with the result that I had to go without water and the days on which I had nothing to drink were by no means few.

I had the same difficulties regarding my residence. I was a stranger in Borsad. No caste Hindu would rent a house to me. The untouchables of Borsad were not ready to give me lodgings for the fear of displeasing the Hindus who did not like my attempt to live as a clerk. Far greater difficulties were in regard to food. There was no place or person from where I could get my meals. I used to buy '

bhajias ' morning and evening, eat them in some solitary place outside the village and come and sleep at night on the payment of the verandah of the Mamlatdar's office. In this way I passed four days. All this became unbearable to me. Then I went to live at Jentral, my ancestral village. It was six miles from Borsad. Everyday I had to walk twelve miles. This I did for a month and a half.

Thereafter the Mamlatdar sent me to a Talati to learn the work. This Talati was in charge of three villages, Jentral, Kanpur and Saijpur. Jentral was his headquarters. I was in Jentral with the Talati for two months. The headman of the village was particularly hostile and offensive. Once he said, "You fellow, your father, your brother are sweepers who sweep the village office and you want to sit in the office as our equal! Take care, better give up this job."

One day the Talati called me to Saijpur to prepare the population table of the village. From Jentral I went to Saijpur. I found the headman and the Talati in the village office doing some work. I went, stood near the door of the office and wished them good morning, but they took no notice of me. I stood outside for about 15 minutes. I was already tired of life and felt enraged at being thus ignored and insulted. I sat down on a chair that was lying there. Seeing me seated on the chair the headman and the talati quietly went away without saying anything to me. A short while after, some people began to come to the village library. I could not understand why an educated person should have led this mob. I subsequently learnt that the chair was his. He started abusing me in the worst terms. Addressing the Ravania, that is, the village servant, he said, "Who allowed this dirty dog of a bhangi to sit on the chair ?" The Ravania unseated me and took away the chair from me. I sat on the ground. Thereupon the crowd entered the village office and surrounded me. It was a furious crowd ranging with anger, some abusing me, some threatening to cut me to pieces with a dharia and I implored them to excuse me and to have mercy upon me. That did not have any effect upon the crowd. I did not know how to save myself. But an idea came to me of writing to the Mamlatdar about the fate that had befallen me and telling him how to dispose of my body in case I was killed by the crowd. Incidentally, it was my hope that if the crowd came to know that I was practically reporting against them to the Mamlatdar they might hold their hand. I asked the Ravania to give me a piece of paper which he did. Then with my fountain pen I wrote the following on it in big bold letters so that everybody could read it:— " To the Mamlatdar,

Taluka Borsad. Sir,

Be pleased to accept the humble salutations of Parmar Kalidas Shivram. This is to humbly inform you that the hand of a mean death is falling upon me today. It would not have been so if I had listened to the words of my parents. Be so good as to inform my parents of my death."

Now, I will refer to certain instances showing the behaviour of the majority towards the Scheduled Castes. One is the case from the Kekatnim-bhore village, taluka Jamner. It is as follows:—

" The Depressed Class people of this village have given up observance of any Hindu festival and have adopted a clean mode of living. One holiday they were asked by the caste Hindu to provide for their Holi cowdung from the fields. The Depressed Class people did so. But they did not have Holi and hence they did not provide for fire to the caste Hindus. Therefore the Hindus rushed into their colony, beat them in their homes and have declared severe boycott on them and have made their life miserable.".

Another case is a case from Vadali village in Jamner taluka. In that village a marriage procession of the Depressed Class people was not allowed to pass through the common gate of the village. The procession was broken and the caste Hindus did not allow the marriage ceremony to be performed on the same day. The Depressed Class people were socially boycotted.

Then there is another case from Manded in Amalner Taluka. In Manded the Depressed Class people held a conference and passed a resolution supporting abandonment of bad habits and to take to a clean mode of life. Some of the caste Hindus did not like the idea. They killed one small pig and put it into the drinking water of the Depressed Class people. This process was repeated twice. The Depressed Class people are now socially boycotted and harassed. Many of the Depressed Class people have vacated their places due to harassment.

Sir, I do not wish to repeat *ad infinitum* cases which show how intolerant this Hindu majority is so far as the untouchables are concerned. I may say that I will take not only a day but probably a month in order to recount all the material that I possess.

Now, the next question that I ask is this : What protection do the Scheduled Castes get as against this harassment ? On that point before I make my submission to the House, I would like to draw the attention of the House to the composition of the administration of this country. I have only figures for the Bombay Presidency with me but, in my judgement, these figures are the typical ones; they would be true not only of this province but they would be true of any part of India. How is the administration of this presidency manned ? This is how it is manned. I am taking the figures given by the Government themselves; they are not my own figures. I am taking, first of all, the Scheduled Castes and the Revenue Department. So far as the District Deputy Collectors are concerned, they are 33 and there is only one person belonging to the Scheduled Castes. There are hundred mamlatdars in this province; out of these hundred mamlatdars there is only one from the Scheduled Castes. There are 34

Mahalkaris, but there is none from the Scheduled Castes. There are 246 Head Karkuns, but there is none from the Scheduled Castes and, coming to the number of clerks in the Revenue Department, they total 2,444. Of them, persons belonging to the Scheduled Castes are just 30.

Now let us take the Public Works Department. In the Public Works Department there are 829 clerks. In this number of 829 clerks the Scheduled Caste people are just seven.

In the Excise Department there are 189 clerks. Of them, the Scheduled Castes can claim not more than three. Coming to the Police Department, according to the figures given, the total number of sub-inspectors is 538. In this number of 538 the untouchables are only two. It is, therefore, obvious that the composition of the administration is entirely Hindu. No question on that point at all.

I would further draw the attention of the House as to how the position of the Scheduled Castes stands in comparison with the other minorities in this province. In the Revenue Department, so far as the district deputy collectors are concerned, out of 33, 8 are Muslims, 3 are Christians and only I belongs to the Scheduled Castes. Out of the 100 mamlatdars, 30 are Muslims, 3 Christians and I belonging to the Scheduled Castes. Out of 34 Mahalkaris there are 4 Mohammedans, 3 Christians but no man from the Scheduled Castes. Out of 246 Head Karkuns, 17 are Mohammedans, 7 are Christians but no one from the Scheduled Castes. Out of the total number of 2,444 clerks, there are 283 Mohammedans, 61 Christians, 58 backward class people and 30 Scheduled Caste people. In the Police Department, out of 538 sub-inspectors, 106 are Mohammedans, 17 are Christians, 6 are backward class people and only 2 are untouchables. In the Public Works Department out of 829 clerks, 41 are Mohammedans, 28 Christians, 7 Backward Classes and 7 untouchables. In the Excise Department out of 189, 13 are Mohammedans, 19 Christians and 3 untouchables.

Therefore, Sir, the position with which we must start at the outset is that the Hindus are not only in a majority so far as the population is concerned, but the Hindus are in a majority so far as the administration is concerned. And the question that I want to ask the Honourable the Prime Minister is this. I think I have shown, I trust to his satisfaction, that the Hindu majority must undoubtedly be reckoned as a hostile majority. He nods his head. He is welcome to his own conclusions. I shall not quarrel with him. But that is the position. How do the untouchables fare in the matter of protection against this harassment? I want to take again a few cases to show that the whole of the administration, manned as it is by the caste Hindus, is certainly hostile to the untouchables; that they do not wish, that they do not desire, and they do not care for justice when the

parties to the quarrels are the caste Hindus on the one side and the untouchables on the other.

Now, the first case to which I want to refer is this. I am giving the number, so that my honourable friend may make inquiries. It is a judgement in Criminal Case No. 191 of 1938 on the file of the Magistrate of the First Class, Sangamner. In this case 7 Hindus were charged under offences falling under section 147, i.e., rioting, 323, 341, 452, 454 and 149 of the Indian Penal Code. The facts were briefly these. The complainant was an untouchable coming from the village which is called Vadgaon Langda. His case was that on a certain day, the villagers in a body of 200, armed with sticks, lathis and other instruments invaded the Mahar quarters and assaulted not only men but also the women. The hurts were grievous hurts.

They were in hospital for several days. Fortunately for them the police took up the case as a cognisable case, which they were bound to do on account of the fact that the hurt was a grievous hurt. These nine people were prosecuted in the court of the First Class Magistrate of Sangamner. The evidence was led by the Police. There was ample medical evidence to show that hurt was caused, and yet what happened? And, if I may say, these nine accused felt so convinced of their guilt that they had actually sent word to me that they were prepared to compromise the matter by paying Rs. 300 to the Mahar men and women who were assaulted. In my poor judgement, I advised the Mahars not to compromise, but to allow the law to take its course. And what did the law do ? What did the Magistrate do? To the surprise of everyone, what the Magistrate did was that he acquitted all the accused.

Dr. K. B. Antrolikar: Sir, is it competent to the honourable member to offer comments on the judgement of a Magistrate?

Dr. B. R. Ambedkar: Certainly. I am stating facts.

The Honourable the Speaker: I was just considering the point. But I wanted to hear the facts which the honourable member was stating. I do not think it will be proper on his part to criticise the judgement of the Magistrate ?

Dr. B. R. Ambedkar: Sir, I am not criticising. I am only stating the facts. I am stating how much protection we get. It is to give a notion as to the protection that the untouchables get, that I am submitting this to the House. I am not challenging the judgement in any way. What I am saying is this: that these people, who felt in their heart of hearts that they were guilty, and were prepared to compromise by paying Rs. 300 by way of compensation, were ultimately acquitted by the Magistrate. And the point that I want to emphasise is this: Why was this assault committed ? Why ? The reason why the assault was committed was simply this, that the untouchables had the audacity to make an application to the Magistrate that some forest lands should be given to them.

That was the offence that these poor people had committed. Another case to which—

The Honourable the Speaker: I would not like to "chill" the honourable member, to use the honourable member's own expression, but I may only remind him that he has already taken one hour. He will take some more time, I am sure. But if he goes into the minor details of the cases which he is citing then I think another hour would not suffice, and I am anxious to see that the debate comes to a conclusion much sooner.

Dr. B. R. Ambedkar: Sir, I just want to refer to two other matters in order just to complete my argument. Another case where the untouchables feel that the officers of the State have failed in giving them the protection to which they are entitled, is the case which comes from a village called Akushi. Now, in this village what had happened was this. This village is in the Wai taluka in the Satara district. The facts are very simple. In that village there was some trouble between the untouchables and the touchable Hindus. The untouchables and the caste Hindus were at loggerheads. But the untouchables decided that on the *Ekadashi day* they should go for what is called *deo darshan.* The caste Hindus, who had proclaimed a boycott against them, did not want the untouchables to go for *deo darshan.* Notwithstanding this, the untouchables went. The result was that the Patel of the village, in combination with the other villagers, assaulted the untouchables who went to *deo darshan.* As usual, the untouchables filed a complaint against the Patel of the village. The position was this: The Patel knew that he was guilty. A summons was issued. He went away and would not take the summons. Then the summons was pasted on his door. He absconded for three months. Ultimately he came back and the law took its course. Even in this case the learned Magistrate, who tried the case, thought it fit to acquit the accused person who had absconded for three months knowing full well that he was guilty.

The other case to which I would make a brief reference is a case which comes from the Poona district from the village of Thatwadi in the Mulshi Peta. In that case what had happened was this. This is an inam village. Somebody had cut some two or three trees of the inamdar. The inamdar lodged a complaint with the police saying that some Mahars, without mentioning anybody, had cut his trees and had stolen the wood. The police officer who made the investigation prosecuted four persons in the court of the magistrate. Now what happened was, that in the course of the prosecution, the pleader who appeared for the accused persons called for the Public Prosecutor to produce the fabricated first information and entered the names of the four Maharas as accused persons although originally no mention of any name was there. Fortunately, the Mahars were acquitted, but the fact remains that even

the police officers who are supposed to give protection to these untouchables go to the length of fabricating evidence in order to involve them in such cases.

Sir, I will not mention any more instances now. I think this story is a sickening one ; is certainly sickens me. I know that the Hindus as a whole care nothing. They laugh at it. They only think that the problem in this country is the problem between the Hindus and the Muslims. I want to tell them that this is a far more serious problem and not only the Hindus, but even the State has not taken sufficient care of these people. If any argument was needed in support of the two amendments which I have tabled, namely, that in any constitution that is going to be framed the untouchables must have adequate safeguards, I think the arguments that I have now submitted to the House would be more than sufficient. I know that there is a certain amount of response on the other side. Two amendments have been tabled by the Honourable the Home Minister. I must tell him frankly that I am not in a position to accept those amendments, and I shall tell the House presently why I cannot accept his amendments in preference to mine.

The first amendment of the Honourable the Home Minister is to the effect that the constitution shall provide adequate safeguards for the protection of the minorities. The position that I take is very simple and it is this: Not only we must have safeguards, but the safeguards must be to our satisfaction. That is the fundamental point. The Honourable the Home Minister evidently supposes that he is a trustee for the untouchables and that as a trustee he could enact certain provisions in the constitution which according to him, must suffice for the protection of the rights of the minorities. Now, I at once want to say that I repudiate that position. Nobody is my trustee; I am my own trustee. They may make their constitution, but we shall claim our right. Whatever provisions they may make relating to our safeguards must be certified by the accredited representatives of the Depressed Classes that they are adequate. Their definition of adequacy will not satisfy me, and that is why I am not in a position to accept the first amendment moved by my learned friend.

With regard to the other amendment, no doubt the Honourable the Home Minister is prepared to meet half way. He is prepared to recognise that the minorities should have a voice in the governance of the country. There again I find that there is a certain amount of difference between him and me. My second amendment has been most deliberately worded. I have taken particular care *to* use the words "fundamental right," and I want to explain my position to some extent as to why I have used the expression " fundamental right ". The one thing that I have realised in the course of the working of the constitution is this: Whether we admit it or not, the political system of this country is reflective of what we call the *chathur varna.* In that system, the theory was this: that the

Kshutriya must rule; that the Brahmin must advise; that the Vaishya must trade but the Sudras or the Adi Sudras must serve. That was the position in olden times. I find in politics the position has changed to some extent. The Vaishya no longer trades. If he trades he trades in politics only. (Laughter). One thing has, however, remained unalterable, and it is that the Sudras shall have no part in the governance of this country. As I observe conditions in this country, as I observe the political constitution of the different cabinets that have been formed all throughout India, I notice that while we untouchables are Sudras or Adi Sudras socially, the Congress Government—if not the Congress Government, the exigencies of the situation—are such that it will ultimately lead us to become political Sudras. I will not tolerate it. I will shed the last drop of my blood to uproot that position. (Loud cries of "hear, hear"). I will not tolerate it if to the social dominance, the economic dominance and the religious dominance which the Hindu exercises over me, is added the political dominance also. I will certainly not tolerate it. I repeat again that I will never allow it. We shall fight tooth and nail against politics being perverted for the purpose of establishing an oligarchy of a ruling class. I will not allow that. I repeat, I cannot allow a constitution which will mean liberty for them and empire over me. I will not allow a constitution in which I am not free and I am not an equal partner. Never will I allow that. Sir, I know these are strong words. But I want to remind the Honourable the Prime Minister that these words are not stronger than the words that were used by Ulstermen in connection with Ireland. I know that in this country when a man belonging to a minority community stands up to fight for the rights of his community, the whole crowd comes out against him, dubs him as communal, dubs him as an anti-Indian and dubs him as a tool acting in the hands of some bureaucrat working for the destruction of this country. Sir, I want to caution this crowd which is taking this attitude; I say that the attitude that the minorities in this country are taking is far better, far nobler, than the attitude that Ulstermen took. What was the attitude of Ulstermen ? I remember reading the proceedings of a conference which was held at the instance of the late King Edward VII at Buckingham Palace in order to bring together the Southern Irish Nationalists and Ulstermen. The question was whether Ulster should be brought under the majority rule of the Southern Irishmen. What were the proposals made by the Nationalists in Southern Ireland to Ulstermen ? Many people probably might not be aware of that history. Those who are will know that Mr. John Redmond, who was the leader of the Irish Nationalist Party, did his level best in order to induce the Carsonites to come under the constitution. He said: " You can have any amount of weightage you like; I do not mind." Let us not live under the belief that weightage is being talked of only in India; weightage was talked of a great deal in Ireland, and Redmond was

prepared to give weightage to Ulstermen. He was prepared to give power in the constitution to some officer to prevent any kind of discrimination being made against Ulstermen. A further provision that the Irish Nationalists were prepared to make for Ulstermen was this, that if after 10 years the Ulster people found that the Southern Irishmen— who undoubtedly would be in a majority—abused their powers and maltreated and persecuted the Protestants of Ulster County, the Ulstermen had the right to go out of the constitution. Sir, they were tremendous provisions. What was the reply of the Ulstermen to this offer? The reply that the Ulstermen gave to Redmond was this : " Damn your safeguards. We do not want to be ruled by you." Are we saying that? Would I not be entitled to say, in view of the stories that I have recounted, " Damn your safeguards. I do not want to be ruled by you ? "I am not saying that. What I am saying is this : " Give me my safeguards, which I think are necessary ; and you can have your democracy." I am sure that is a position which no man can quarrel with.

I would say one word in the end. I know my position has not been understood properly in the country. It has often been misunderstood. Let me, therefore, take this opportunity to clarify my position. Sir, I say this, that whenever there has been a conflict between my personal interests and the interests of the country as a whole, I have always placed the claim of the country above my own personal claims. (Hear, hear). I have never pursued the path of private gain. If I had played my cards well, as other do, I might have been in some other place. I do not want to say anything about it, but I did not do it. There were colleagues with me at the Round Table Conference who, I am sure, would support what I say—that so far as the demands of the country are concerned, I have never lagged behind. Many European members who were at the Conference rather felt embarrassed that I was the infant terrible of the Conference. But I will also leave no doubt in the minds of the people of this country that I have another loyalty to which I am bound and which I can never forsake. That loyalty is the community of untouchables, in which I am born, to which I belong, and which I hope I shall never desert. And I say this to this House as strongly as I possibly can, that whenever there is any conflict of interest between the country and the untouchables, so far as I am concerned, the untouchables' interests will take precedence over the interests of the country. I am not going to support a tyrannising majority simply because it happens to speak in the name of the country. I am not going to support a party because it happens to" speak in the name of the country. I shall not do that. Let everybody here and everywhere understand that that is my position. As between the country and myself, the country will have precedence; as between the country and the Depressed Classes, the Depressed Classes will have precedence—the country will not have precedence. That is all that I would say

with regard to these two amendments of mine.

Now, with regard to the other amendments, I do not propose to detain the House at all. I was rather surprised at the remarks made by the Honourable the Prime Minister with regard to a part of the resolution which says that whatever arrangements are to be made they should be made with the consent of the Provincial Governments. I knew that he was not aware of the amendment which is being moved by my honourable friend Mr. Mukadam, because, I see, those parts are to be deleted. Therefore, I will not make any comments upon that part of the resolution, although I must say that on principle I do not agree with this part of the resolution.

Now, Sir, before sitting down I would like to say one or two words with regard to the other amendments that are before the House. In doing so, I would advert first to the amendment moved by the honourable member the Leader of the Opposition. With regard to that amendment, I would request the Prime Minister to note one thing which I think he has failed to note. It is true that the Leader of the Opposition in his amendment says that democracy has failed. But, Sir, the point that I wish the Prime Minister to note in making his comment upon the amendment of the Leader of the Opposition is this. We see now that he is opposed to democracy; but. Sir, he may not be opposed to self-government. After all, democracy, autocracy, and republicanism—these are all forms of government; they all come under self-government. So long as the honourable member the Leader of the Opposition does not take the view that this country is not entitled to self-government, I think too much blame ought not to be attached to the unfortunate language that has been used. After all, he is with us.

And I do not understand my honourable friend the Prime Minister insisting upon democracy as the only solution. I remember reading the speeches of the leaders of the Honourable the Prime Minister at the Tripuri Congress. Unfortunately, the volume which I had with me I forgot to bring today. So much the better, because I could save time. But I think at the Tripuri Congress the friends of the Honourable the Prime Minister, Pandit Govind Vallabh Pant, Mr. Rajgopalachari, Pandit Jawaharlal Nehru and all of them were singing the praises of Mussolini and Hitler—

The Honourable Mr. Morarji R. Desai: When ?

Dr. B. R. Ambedkar: I will quote chapter and verse if it is wanted. In fact I wanted to bring the book, but I forgot to bring it.

The Honourable Mr. B. G. Kher: I was present there, and I heard the speeches. What the honourable member says is not correct.

Dr. B. R. Ambedkar: I am sorry, I have not got the volume with me now. If I had it, we could have decided the issue right now.

The Honourable the Speaker : There is no time for that now.

Dr. B. R. Ambedkar : All that I am saying is this, that so long as people in India have self-Government, whether the self-Government takes the form of democracy, whether it takes the form of autocracy, or whether it takes some other form, it is a matter of detail, about which there ought to be no quarrel. And, therefore, my submission is this: that in judging of the resolution, which, as I said, is somewhat unfortunately worded, his intention should not be misconstrued.

With regard to the amendment moved by the Congress Party, I join with the Prime Minister in saying that they ought to be felicitated on the amendment that they have moved, and I agree with the main basis of their resolution. There is one amendment, however, to which I cannot lend any support, and that is the one which is to the effect that the House approves of the intention of the ministry resigning—or something like that. Now, Sir, what I should like to say is this. My honourable friend the Prime Minister would agree—he is as good a politician as any politician can be— that this is really a matter for their party caucus. It is not a matter for the House to decide. Whether the ministry should go out or should not go out is entirely a matter for their party to decide. Why does he want my sanction for his going out?

The Honourable Mr. B. G. Kher: I do not want it.

Dr. B. R. Ambedkar: Why does he need it ? I put to him another conundrum. Suppose I bring an amendment to say that the ministry shall not come back unless I invite them, will he accept it ? I am sure he would not tie himself down in that manner. If you want my sanction for going out, it will be some honour to me if you will also make your re-entry dependent on my sanction. But you will not do that, and I feel bound in conscience to oppose that amendment.

Sir, I thank you for the indulgence you have given me. (Applause).

The Honourable the Speaker: I would repeat my appeal to curtail the time. The honourable member Dr. Ambedkar has taken an hour and a half. I hope other honourable members will now curtail their time.

Dr.B. R. Ambedkar: I apologise, Sir.

47
ON PARTICIPATION IN THE WAR : 3

The Honourable Mr. B. G. Kher : I shall try and finish as soon as you like.

Sir, I will not go over the entire ground which the honourable Doctor has covered. I agree with him: I concede the correctness of what he says about the wrongs done to Harijans, because it is not necessary for my purpose to deny all those instances of wrongs which are done to the members of his community in this country. Those indeed are the wrongs which we have tried to remedy to the

best of our ability for a long, long time.

The honourable member did not say what the remedy was; in that his long speech was lacking. As has been pointed out by other speakers, whether it is the judgement in the Sangamner case or the hundred and one cases which he has read out here, the only remedy is that we must have a proper form of government, and that form of government can only be democracy in this country with due safe-guards for the minorities—a point which we concede. Sir, we are thankful to the honourable member for pointing out to us that he did not say, like the Ulstennen, "Damn your safe-guards; I do not want to be governed by you." He was not going to say that, and I appreciate it. But I cannot appreciate the statement which he made—and which he believes in—in all sincerity. He said : " As between me and the country, the country has precedence." I support him in this and I shall quote every word of what he has said. I have known the honourable member's life and career intimately, and I can say that this is absolutely correct. He has always been willing to subordinate his personal advancement for the cause of the country. He goes on to say, " as between the depressed classes and the country, the depressed classes have precedence with him."

Dr. B. R. Ambedkar: Certainly.

The Honourable Mr. B. G. Kher: He said that; he does not deny that. My quarrel is with that statement of his. Because the part can never be greater than the whole. The whole must contain the part.

Dr. B. R. Ambedkar: I am not a part of the whole; I am a part apart.

Contents **Appendices**